

IN THE MATTER	§	TEXAS STATE BOARD OF
	§	
OF THE LICENSE OF	§	VETERINARY
	§	
JAMES TUCKER, D.V.M.	§	MEDICAL EXAMINERS

AGREED ORDER

On this the 13 day of October 2015, came to be considered by the Texas Board of Veterinary Medical Examiners (Board) the matter of the license of JAMES TUCKER, D.V.M. (Respondent). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.29, an informal conference was held on August 28, 2015. Respondent appeared at the informal conference, but was not represented by counsel. The Board was represented at the conference by the Board's Enforcement Committee.

Respondent, without admitting the truth of the findings and conclusions set out in this Agreed Order, wishes to waive a formal adjudicative hearing and thereby informally dispose of the issues without a formal adjudication. Respondent agrees to comply with the terms and conditions set forth in this Order. In waiving an adjudicative hearing, Respondent acknowledges his understanding of the alleged violations and the adequacy and sufficiency of the notice provided to him.

Upon the recommendation of the Enforcement Committee and with Respondent's consent, the Board makes the following Findings of Fact and Conclusions of Law and enters this Agreed Order as set forth below.

Findings of Fact

1. Respondent, JAMES TUCKER, D.V.M. of Tulia, Texas, holds Texas veterinary license 2091.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent received notice, which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied under Tex. Occ. Code Ann. Title 4 (Act). By entering into this Agreed Order, Respondent waives any defect in the notice and any further right to notice and hearing under the Act; Tex. Gov't Code Ann. §§ 2001.051-.054; and the Rules of the Texas Board of Veterinary Medical Examiners (Board Rules) (22 Tex. Admin. Code, Chapter 575).
3. The city of Tulia pays Respondent to perform euthanasia and reimburses him for the euthanasia solution. On January 16, 2015, Brandie Devine, Animal Control officer with the Tulia Police Department, scheduled an appointment with James Tucker, D.V.M. to euthanize six dogs. Respondent administered medications to sedate the dogs prior to euthanasia. Respondent then attempted to euthanize the dogs using an Epsom salt solution in a large brown bottle with an orange

label. The label did not identify the contents of the bottle, but had a skull and cross bones drawn on it.

4. Respondent administered the solution into the heart of the first two dogs. It took approximately seven to eight minutes for the animals to die. The third dog was injected but did not respond to the solution. Respondent instructed Ms. Devine to set the third dog aside and get the next dog. The fourth dog also did not respond to the solution. The fifth and sixth dogs passed away within seven to eight minutes of the solution being administered.

5. When it was time to euthanize the third and fourth dogs again, Respondent was concerned that he didn't have enough solution to complete the euthanasia for the dogs. He used the last of the solution to euthanize one dog and then both he and Ms. Devine returned to Respondent's clinic to get more solution. When Ms. Devine and Respondent returned to the remaining dog, it had already passed away.

6. On March 17, 2015, a Board investigator inspected Respondent's clinic. The investigator found that Respondent does not maintain a controlled substance log for his controlled substances, and does not maintain a separate file for his controlled substance invoices. Respondent stores his medications in a standard, two door, pre-fabricated cabinet, mounted to the wall in an exam room. The drug cabinet is locked with a standard single core lock and key, and there is no lock on the hollow core door to the exam room where the drugs are stored. Respondent's medication labels lack required information.

7. Respondent's patient records are kept on small index cards that lack necessary and required information to document details of patient examinations and treatments.

8. Respondent was unable to provide proof of the required seventeen hours of continuing education for the years 2012 through 2014.

9. Respondent had no complaint notice information posted in his office, or otherwise available for clients.

Conclusions of Law

1. Respondent is required to comply with the provisions of the Veterinary Licensing Act, Chapter 801, Texas Occupations Code, and with the Board's rules.

2. Based on the above Findings of Fact, Respondent has violated Rule 573.22, PROFESSIONAL STANDARD OF CARE, of the Board's Rules of Professional Conduct, by having a prolonged euthanasia process, and thus failing to exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances, including the type of practice, by average members of the veterinary medical profession in good standing in the locality or geographic community in which they practice, or in similar communities.

3. Based on the above Findings of Fact, Respondent has violated Rule 573.52, VETERINARIAN PATIENT RECORD KEEPING, of the Board's Rules of Professional Conduct, which requires licensees to maintain individual records for each patient that contain certain information, including weight, temperature; details necessary to substantiate and document the examination, diagnosis, treatment, or surgical procedure performed; names, dosages, concentration, and routes of administration of each drug prescribed, administered, or dispensed.

4. Based on the above Findings of Fact, Respondent has violated Rule 573.50, CONTROLLED SUBSTANCES RECORDS KEEPING FOR DRUGS ON HAND, which requires that licensees maintain at their place of business records of all scheduled drugs listed in the Texas Controlled Substances Act in their possession.

5. Based on the above Findings of Fact, Respondent has violated Rule 573.61, MINIMUM SECURITY FOR CONTROLLED SUBSTANCES, which requires that licensees ensure the safety of controlled substances by storing controlled substances in a securely locked, substantially constructed cabinet or security cabinet.

6. Based on the above Findings of Fact, Respondent violated Rule of Professional Conduct 573.40, LABELING OF MEDICATIONS DISPENSED, by failing to record required information on the labels of containers for medication dispensed, including the name of the drug dispensed.

7. Based on the above Findings of Fact, Respondent violated Rule of Professional Conduct 573.29, COMPLAINT INFORMATION AND NOTICE TO CLIENTS, which requires a licensed veterinarian to provide an effective way to inform clients and other visitors to the premises, clinic or hospital of how to file complaints with the Board.

8. Based on the above Findings of Fact, Respondent has violated Rule 573.64, CONTINUING EDUCATION REQUIREMENTS, which requires licensees to complete 17 hours of continuing education each year.

9. Based on the above Conclusions of Law, Respondent has violated Section 801.402 (6) of the Veterinary Licensing Act, Texas Occupations Code, and is subject to disciplinary action by the Board:

801.402. GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. A person is subject to denial of a license or to disciplinary action under Section 801.401 if the person:

(6) engages in practices or conduct that violates the board's rules of professional conduct.

10. Based on the above Conclusions of Law, Respondent is subject to disciplinary action under Section 801.401 of the Veterinary Licensing Act, Texas Occupations Code:

801.401. DISCIPLINARY POWERS OF BOARD. (a) If an applicant or license holder is subject to denial of a license or to disciplinary action under Section 801.402, the Board may:

- (1) refuse to examine an applicant or to issue or renew a license;
- (2) revoke or suspend a license;
- (3) place on probation a license holder or person whose license has been suspended;
- (4) reprimand a license holder; or
- (5) impose an administrative penalty.

.... (d) In addition to other disciplinary actions authorized by this subchapter, the board may require a license holder who violates this chapter to participate in a continuing education program.

NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, in lieu of any administrative penalties or reprimands associated with a finding of a violation of the Board's rules and the Veterinary Licensing Act, Respondent agrees to **voluntarily surrender** his veterinary license and not seek reinstatement by the Board for five years from the date the Board approves this Order.

The Board further ORDERS that:

1. Respondent shall abide by the Rules of Professional Conduct, the Texas Veterinary Licensing Act and the laws of the State of Texas and the United States.
2. Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this order.
3. Failure by Respondent to comply with the terms of this Agreed Order or with any other provision of the Act or the Board Rules, may result in further disciplinary action.

Respondent, by signing this Agreed Order, acknowledges his understanding of the Agreed Order, the notice, Findings of Fact and Conclusions of Law herein set forth, and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary action by the Board.

Respondent, by signing this Agreed Order, waives his right to a hearing and any right to seek judicial review of this Order. Respondent acknowledges that he is entitled to be represented by an attorney of Respondent's choice at his expense in any hearing before the Board.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

Received

SEP 28 2015

Texas State Board of
Veterinary Medical Examiners

The date of this Agreed Order shall be the date it is adopted by the Texas Board of Veterinary Medical Examiners.

I, JAMES TUCKER, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THAT THIS ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN, OR OTHERWISE.

James E Tucker
JAMES TUCKER, D.V.M.

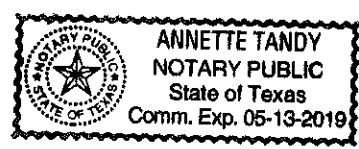
09/23/2015
Date

STATE OF TEXAS
COUNTY OF Swisher

BEFORE ME, on this day, personally appeared JAMES TUCKER, D.V.M., known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 23 day of Sept., 2015

Annette Tandy
Notary Public



SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 13 day of October, 2015.

Bud Aldredge Jr DVM
President of the Board