DOCKET NO. 2013-92

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

AGREED ORDER

On this, the 12th day of July, 2013, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Barbara Whitlock, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on April 9, 2013 to consider alleged violations of the Veterinary Licensing Act and the Board's rules by Respondent.

Respondent, without admitting the truth of the findings and conclusions set out in this Agreed Order, wishes to waive a conference under Section 801.408 and thereby dispose of the compliance issues set out below. Respondent agrees to comply with the terms and conditions set forth in this Order. In waiving the right to a conference, Respondent acknowledges her understanding of the alleged violations and the adequacy and sufficiency of the notice mailed to her.

Upon the recommendation of the staff 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, Barbara Whitlock, D.V.M. of Corpus Christi, Texas, holds Texas veterinary license 3664.

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. As the result of notification of the Texas Department of Public Safety ("DPS"), the Board determined that Respondent did not have current registration with the DPS for Animal Care Services, City of Corpus Christi ("ACS"), located at 2623 Holly Road in Corpus Christi, Texas. According to the DPS, Respondent's controlled substance registration for the ACS location expired on November 30, 2011. Respondent renewed her DPS controlled substance registration for the ACS location effective August 30, 2012.
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4. Respondent admitted that she used controlled substances on June 14, 19, 26, 28 and July 11, 2012 to perform anesthesia for surgery at ACS without a current controlled substance registration with DPS for that location.

5. On July 12, 2012, Respondent gave mixture of ketamine and xylazine to City of Corpus Christi Animal Care Services Animal Control Agent Ray DeLeon to dart a stray dog as part of his official job duties. Respondent did not examine the stray dog for which she prescribed and dispensed the ketamine and xylazine.

6. In her response to the Board, Respondent pointed out several mitigating factors. According to Respondent, Animal Control Agent DeLeon had not actually administered the dispensed drug—he had simply loaded the drug into darts and then discarded the darts unused. Respondent also stated that she had retrieved the remainder of the dispensed ketamine and xylazine from Animal Control Agent DeLeon, and had not dispensed any additional drugs for darter to any animal control agents after that.

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 Findings of Fact 1 through 4, Respondent has violated Rule 573.43, CONTROLLED SUBSTANCES REGISTRATION, of the Board’s Rules of Professional Conduct, which states that a licensee may not prescribe, dispense, deliver or order delivered, any controlled substance, unless she is currently registered with the DPS.

3. Based on Findings of Fact 5 and 6, Respondent has violated Rule 573.41, USE OF PRESCRIPTION DRUGS, by prescribing and dispensing a prescription drug without first having established a veterinarian/client/patient relationship and determined that the drug is therapeutically indicated for the health and/or well-being of the animal.

4. Based on Findings of Fact 5 and 6, Respondent has violated Section 801.351 of the Veterinary Licensing Act, Texas Occupations Code, by failing to establish a veterinarian-client-patient relationship through possessing sufficient knowledge of the animal by examining the animal prior to practicing veterinary medicine.

5. Based on Conclusions of Law 1 through 4, Respondent has violated Section 801.402 (4) and (5) 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:
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(4) engages in dishonest or illegal practices in, or connected with, the practice of veterinary medicine;

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

6. Based on Conclusions of Law 1 through 5, 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.

5. Based on Conclusions of Law 1 through 5, Respondent may be disciplined in the manner set out in Section 801.451, IMPOSITION OF ADMINISTRATIVE PENALTY, of the Veterinary Licensing Act, which authorizes an administrative penalty for violations of the Act and Board rules.

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

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent receive an INFORMAL REPRIMAND.

The Board ORDERS that Respondent pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of ONE THOUSAND dollars ($1000.00). If Respondent fails to pay the administrative penalty within 45 days of the date of this Order, Respondent’s license may be suspended until the penalty is paid, and any payment by the Respondent to the Board to renew her license will be applied toward the payment of any administrative fee owed to the Board, and further enforcement action may be taken.

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
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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 her understanding of the Agreed Order, the notice, Findings of Fact and Conclusions of Law herein set forth, and agrees that she 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 her right to a hearing and any right to seek judicial review of this Order. Respondent acknowledges that she is entitled to be represented by an attorney of Respondent's choice at her 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.

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

I, BARBARA WHITLOCK, 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.

Barbara Whitlock, D.V.M. 5-15-13
DATE

STATE OF TEXAS
COUNTY OF WILLIAM

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

Given under the hand and seal of office this 15 day of May, 2013.

JESSICA C GARZA
Notary Public
STATE OF TEXAS
My Comm. Exp. 12-28-15

JESSICA C. GARZA
Notary Public
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SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 16th day of July, 2013.

[Signature]
Bud E. Allredge, Jr., D.V.M.
President of the Board