

TEXAS VETERINARY LICENSE 15508; COMPLAINT NO. 20-401/20-402

IN THE MATTER OF	§	BEFORE THE
	§	ENFORCEMENT COMMITTEE
THE LICENSE OF	§	OF THE TEXAS BOARD
	§	OF VETERINARY MEDICAL
HARRY MALINKSI, D.V.M.	§	EXAMINERS

ORDER CONTINUING TEMPORARY SUSPENSION

On October 16, 2020, a panel of the Enforcement Committee (“EC”) of the Texas Board of Veterinary Medical Examiners (“Board”) considered the matter of the license of Harry Malinski, D.V.M. (“Respondent”).

On October 5, 2020, the Board’s Executive Disciplinary Committee (“EDC”) convened without notice to Respondent, pursuant to Section 801.409 of the Veterinary Licensing Act, Texas Occupations Code, and Board Rule 575.35. The EDC entered an Order of Temporary Suspension.

On this day, the EC convened with notice to Respondent, pursuant to Section 801.409 of the Veterinary Licensing Act, Texas Occupations Code, and Board Rule 575.35. Based on the evidence and information submitted, the Board, through this panel, makes the following Findings of Fact and Conclusions of Law and enters this Order as set forth below.

FINDINGS OF FACT

1. Respondent, Harry Malinski, D.V.M., of Burleson, Texas, holds Texas veterinary license 15508.
2. The Respondent cohabitated with Dr. Linda West. The Respondent hosted a birthday party for Dr. West at the residence on September 14, 2019.
3. On September 15, 2019, Arlington EMS was dispatched to the residence because Dr. Linda West was in cardiac arrest.
4. During an interview with Arlington PD, the Respondent admitted that they had been using cocaine and that he was also in possession of cannabis edibles. Respondent also admitted that he was the only one that did “hard drugs”.
5. During the investigation into this complaint, it was found that Respondent used the address of West Villa Maria Veterinary Clinic for his DEA registration. Respondent worked at that address as a veterinary assistant from 2012-2014 but not as a veterinarian. Respondent applied for the DEA registration in July 2018.

6. According to the owner of West Villa Maria Veterinary Clinic, the clinic had received phone calls from distributors seeking to verify orders for Tramadol from the Respondent.
7. The Prescription Monitoring Database shows that the Respondent has been writing and calling in prescriptions for Tramadol for himself and Tramadol and Alprazolam for his roommate.
8. The Prescription Monitoring Database shows that on July 29, 2018, the Respondent called in a prescription for 180 Tramadol tablets for a dog named Maggie belonging to his roommate. According to an interview with the roommate on September 15, 2020, the roommate has never owned a dog named Maggie.
9. On July 15, 2019, the Respondent called in a prescription for 21 tablets of Augmentin for a dog named Toffer belonging to the Respondent's roommate. The Respondent's roommate has never owned a dog named Toffer.
10. Respondent called in a prescription for Sildenafil for a dog named Maggie Malinski on November 21, 2018 and March 15, 2019. According to the Respondent's roommate, the Respondent's did have a dog named Maggie, but she died in 2017.
11. The investigation revealed a video of the Respondent from 2017 admitting that he was on Alprazolam and alcohol.
12. The Respondent's patient prescription monitoring entries show no prescriptions for Alprazolam.
13. Respondent's continued practice of veterinary medicine constitutes a continuing of imminent threat to the public welfare.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Chapter 801, the Board has jurisdiction over this matter. 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. Respondent has violated Board Rule 573.4, Adherence to Law, of the Board's Rules of Professional Conduct.
3. Respondent has violated Board Rule 573.42, Controlled Substances Registration, of the Board's Rules of Professional Conduct.
4. Respondent has violated Section 801.402(3) of the Veterinary Licensing Act, Texas Occupations Code, prohibiting chronic or habitual intoxication and drug addiction.
5. Respondent has violated Section 801.402(13) of the Veterinary Licensing Act, Texas Occupations Code, prohibiting the prescribing of drugs to a patient without a valid veterinarian-client-patient relationship.

6. Respondent is subject to temporary license suspension under Texas Occupations Code, Sections 801.409 and Board Rule 575.35.

TERMS OF ORDER

Now, therefore, the Board orders that Respondent comply with the following terms:

1. TEMPORARY SUSPENSION

- a. The temporary suspension of Respondent's license shall be continued and shall remain in effect until superseded by a subsequent Order or by operation of law. During the period of the suspension, the following terms shall apply:
 - i. Respondent shall not practice nor give the appearance of practicing veterinary medicine.
 - ii. Respondent shall not supervise nor give the appearance of supervising other licensees or unlicensed employees in the practice of veterinary medicine.
 - iii. Respondent's clinic and facilities may be used by Respondent for administrative purposes only. Administrative purposes include opening mail, referring patients, accepting payments on accounts, and general office tasks. Respondent shall exercise extreme caution and not be persuaded, coerced, or otherwise drawn by anyone to practicing or even giving the appearance of practicing veterinary medicine.
- b. The temporary suspension shall be lifted after an evaluation by the Board's Peer Assistance Program has declared the Respondent safe to practice veterinary medicine.

2. NOTICE AND OPPORTUNITY FOR HEARING

- a. The Board shall promptly provide a copy of this Order to Respondent's address of record. The Board shall also provide a copy of this Order to Respondent electronically or by facsimile, as necessary.
- b. Pursuant to Section 801.409, Texas Occupations Code, and Board Rule 575.35, if the parties are unable to enter into an agreed settlement order, a notice of hearing shall be forwarded to the State Office of Administrative Hearings for setting of an administrative hearing on the temporary suspension to be held no later than the 60th day after the date the EDC first ordered the temporary suspension of Respondent's license.

THEREFORE, the Texas Board of Veterinary Medical Examiners, through the Enforcement Committee, does hereby adopt this Order. This Order is effective and final on this 16th day of October 2020.

Jessica Quillivan, DVM

Jessica Quillivan, D.V.M., Presiding Board Member