

STATE OF TEXAS  
AUG 27 2013  
BOARD OF VETERINARY MEDICAL EXAMINERS

DOCKET NO. 2013-142

IN THE MATTER OF § TEXAS BOARD OF  
THE LICENSE OF § VETERINARY  
SCOTT K. BRIERS, D.V.M. § MEDICAL EXAMINERS

**AGREED ORDER**

On this the 22 day of October, 2013, came to be considered by the Texas Board of Veterinary Medical Examiners (Board) the matter of the license of Scott K. Briers, D.V.M. (Respondent). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on July 15, 2013. The Respondent appeared at the informal conference, and 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, Scott K. Briers, D.V.M. of Conroe, Texas, holds Texas veterinary license 7918.
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. On December 5, 2012, Karl Carmack presented four swine for castration to Respondent at the Conroe Veterinary Clinic ("Clinic") in Conroe, Texas.

4. Two of the swine were older and larger, around 65 pounds each. Two of the swine were smaller and younger, around 24 pounds each.

5. Respondent castrated the two larger swine first without any difficulty or complications. However, when he started surgery on the first of the two smaller swine, he noticed that the pig did not have testicles in his scrotum. Respondent did not see any surgical scarring or evidence of a previous castration surgery on the first of the smaller two pigs. Respondent assumed that the smaller swine must have retained testicles, and performed abdominal surgery to remove ovoid masses that he believed were underdeveloped testicles. Respondent noticed that the ovoid masses did not have spermatic cords attached or any other clear indications of being retained testicles, but did not question whether that indicated the masses he was removing were not testicles.

6. After finishing surgery on the first of the two smaller swine, Respondent started surgery on the second of the two smaller pigs. Respondent noted that this pig also did not have testicles in its scrotum, but did not examine the second small pig for surgical scarring. Respondent again assumed that the smaller swine must have retained testicles, and performed the same abdominal surgery to remove the ovoid masses that he believed were underdeveloped testicles that he had performed on the first of the smaller pigs.

7. Respondent did not call Mr. Carmack when he discovered that neither of the smaller pigs had testicles, and did not tell Mr. Carmack that he had encountered difficulties in the castration procedure.

8. Mr. Carmack later spoke with the breeder of the two smaller swine, and discovered that the breeder had both of the smaller swine castrated days after birth.

#### **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 5, Respondent has violated Rule 573.22, PROFESSIONAL STANDARD OF CARE, by failing to diagnose two pigs as having already been castrated prior to performing surgery on them to remove suspected retained testicles, despite the fact that the pigs had evident surgical scarring and that the tissue removed from the abdomen did not have spermatic cords or other indications of being retained testicles, and by failing to communicate with his client regarding the fact that the pigs did not have testicles in their scrotums prior to surgery.

3. Based on Findings of Fact 1 through 8 and Conclusions of Law 1 and 2, 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.

4. Based on Conclusions of Law 1 through 3, 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: (a)

- (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, the Board ORDERS that Respondent receive an FORMAL REPRIMAND.

In addition, the Board ORDERS that Respondent complete an additional THREE (3) hours of continuing education in SURGERY within one year of the date of this Order. Documentation of the completion of the continuing education penalty shall be received within thirty (30) days after one year of the date of this Order. If Respondent fails to provide documentation of completion within forty-five (45) days of one year of the date of this Order, Respondent's license may be suspended until the continuing education penalty is completed and documentation is received by the Board.

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 Agreed Order.

3. Failure by Respondent to comply with the terms of this Agreed Order or with any other provisions of the Licensing 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, and Findings of Fact and Conclusions of Law set forth herein, 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 formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that he had the right to be represented by legal counsel in this matter.

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 effective date of this Agreed Order shall be the date it is adopted by the Board.

I, SCOTT K. BRIERS, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND 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.

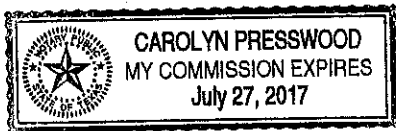
  
SCOTT K. BRIERS, D.V.M.

8/21/2013  
DATE

STATE OF TEXAS §  
COUNTY OF Montgomery §

BEFORE ME, on this day, personally appeared Scott K. Briers, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 21 day of August, 2013



Carolyn Presswood  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 22nd October, 2013.

Bud E. Allredge, Jr.  
Bud E. Allredge, Jr., D.V.M., President