

COMPLAINT NO. 1986-9

THE STATE OF TEXAS	χ	BEFORE THE TEXAS STATE
VS.	χ	BOARD OF VETERINARY
M. L. BRITTAIN, D.V.M.	χ	MEDICAL EXAMINERS

FINDINGS, CONCLUSIONS AND ORDERS OF THE BOARD

On the 15th day of August, 1986, the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting at the Mariott Hotel in Austin, Travis County, Texas, such meeting being called for the purpose of hearing and considering the above numbered and entitled complaint as well as for consideration of other Board business, and the above entitled and numbered complaint having been previously scheduled for hearing and Defendant, the said M. L. BRITTAIN, D.V.M., having been duly notified and the following members of the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS being present, to-wit:

DR. EDWARD S. MURRAY, President	of Spur, TX
DR. ED B. AVERY, Vice-President	of Pearsall, TX
DR. K. D. DORRIS, Secretary	of Stephenville, TX
DR. W. L. "DUB" ANDERSON, Member	of Addison, TX
MR. JIM HUMPHREY, Member	of Henrietta, TX
MR. MIKE LEVI, Member	of Spicewood, TX
DR. MARY E. MAINSTER, Member	of San Antonio, TX

FINDINGS OF FACT

I.

M. L. BRITTAIN, D.V.M., is a doctor of veterinary medicine, licensed to practice veterinary medicine in the State of Texas under License 2311 with offices at Terrell Veterinary Clinic, Highway 80 West, Terrell, Kaufman County, Texas.

II.

M. L. BRITTAIN, D.V.M. received notice of this hearing on or about July 25, 1986.

III.

On or about March 27, 1986, the U. S. Department of Agriculture revoked the veterinary accreditation of M. L. BRITTAIN, D.V.M. for a period of three (3) months expiring June 26, 1986.

IV.

The revocation of DR. BRITTAIN's federal accreditation was prompted by the findings that DR. BRITTAIN signed test records reflecting brucellosis tests which he did not conduct; that Dr. Brittain used a layman (Paul Cotton) to perform some of the brucellosis card tests on blood samples, that Dr. Brittain did not collect the blood samples and never inspected the cattle; that Dr. Brittain certified in his VS Form 4-33 that he drew blood samples which he did not. Further, that Dr. Brittain's accreditation was suspended due to his signing of VS Forms 4-33 which did not reflect fully and accurately the identification of the animals, as he never inspected them, and could not verify vaccination status concerning correct ear tags since he did not tag the cattle. Further Dr. Brittain signed VS Forms 4-33 reflecting tests and results performed by a layman. Further, that Dr. Brittain did not perform official tests and inspections according to state and federal instructions in that the samples were delayed approximately a week before being shipped to testing lab, causing 140 samples to hemolyze. Further, that Dr. Brittain allowed a layman the use of a controlled biological product in contravention of Federal and State regulations and allowed a layman the use of "official" metal eartags and did not prevent their misuse and allowed the "official" tags to be kept in the custody of someone other than himself.

V.

Paul Cotton, who is not a licensed veterinarian, as indicated by the records of the Texas Board of Veterinary Medical Examiners, was an employee of Dr. Brittain at the time of the incident in question. Paul Cotton went to the Greenville Livestock Commission Company facilities and drew blood samples from certain animals. Paul Cotton thereafter tested the blood samples in Dr. Brittain's office as part of the diagnostic procedure. Paul Cotton received compensation for the above stated services.

CONCLUSIONS OF LAW

I.

M. L. BRITTAIN, D.V.M. has violated the Rules of Professional Conduct for the veterinary profession, Rule 25, pertaining to the loss of accreditation from the U. S. Department of Agriculture because of a violation of federal brucellosis control regulations.

II.

M. L. BRITTAIN has violated Rule 14 of the Rules of Professional Conduct for the veterinary profession pertaining to aiding or abetting the practice of veterinary medicine by an unlicensed person.

ORDER

DR. BRITTAIN entered a plea of No Lo Contendre to the charges. The Board voted unanimously to accept the No Contest Plea (attached) and ORDERED that Texas Veterinary License No. 2311 heretofore issued to M. L. BRITTAIN, D.V.M., by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS be and the same is HEREBY SUSPENDED for a period of two (2) years with one (1) year, eleven (11) months being PROBATED. Commencement date of the thirty (30) day license suspension will be September 15, 1986. DR. BRITTAIN agrees to serve as a State's Witness in any Court proceedings in conjunction with action filed by the Texas Board of Veterinary Medical Examiners against Paul Cotton. Further, DR. BRITTAIN will abide by the Veterinary Practice Act and Rules of Professional Conduct duly promulgated by the Board.

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The above Findings and Orders of the Texas State Board of Veterinary Medical Examiners are ORDERED to be entered as the UNANIMOUS FINDINGS AND ORDERS of the Board, a quorum and a majority of the members of such Board being present and participating in such hearing, deliberations and decision, and such FINDINGS AND ORDERS are made on the 15th day August, 1986, in Austin, Travis County, Texas.

The Secretary of the Board is hereby ordered to prepare the Board's Findings and Orders in appropriate form and submit to the members of the Board for their signatures and to mail a copy of same to the Respondent at his last known address.

Executed this 16th day of August, 1986.

Edward S. Murray, D.V.M.
EDWARD S. MURRAY, D.V.M., President

August 15, 1986

Date

Ed B. Avery, D.V.M.
ED B. AVERY, D.V.M., Vice-President

August 15, 1986

Date

(Recused)

K. D. DORRIS, D.V.M., Secretary

Date

W.L. Anderson, D.V.M.
W.L. "DUB" ANDERSON, D.V.M., Member

August 15, 1986

Date

Jim F. Humphrey
JIM F. HUMPHREY, Member

August 16, 1986

Date

Mike Levi
MIKE LEVI

August 15, 1986

Date

Mary E. Mainster, D.V.M.
MARY E. MAINSTER, D.V.M., Member

8/16/86

Date

(Absent)

FRANK E. MANN, JR., D.V.M., Member

August 15, 1986

Date

(Absent)

FRED K. SOIFER, D.V.M., Member

August 15, 1986

Date

DOCKET NUMBER 1986-9
M. L. BRITTAIN, D.V.M.
LICENSE NUMBER 2311

NEGOTIATED PLEA

This negotiated plea has been entered by agreement between Dr. Brittain, his attorney R. B. Poole, and the Texas State Board of Veterinary Medical Examiners staff in concurrence with the Board Secretary. It is presented to the Board as a recommendation only. If the Board elects to reject or amend this negotiated plea the defendant, Dr. Brittain, will be granted a continuance at his option.

Dr. Brittain does not contest the allegations set forth in the Complaint and agrees that, accordingly, the Board may treat the allegations of fact and law as true, which findings shall have the same force and effect as if evidence and argument were presented in support of the allegations, and based thereon, the Board found the allegations to be true. Respondent understands and intends that by so stating, he is not admitting the truth of the allegations, but is merely agreeing that the Board may enter an Order treating the allegations as true without the necessity of receiving evidence in support thereof.

PLEA: No Contest

FINDING: Guilty

RECOMMENDED PENALTY:

1. Two (2) years suspension of veterinary license commencing August 15, 1986 with one year and eleven months being probated. The thirty (30) day license suspension will be effective Sept 15, 1986.

CONDITIONS:

1. Dr. Brittain will serve as a State's Witness in any Court proceedings in conjunction with action filed by the Texas Board of Veterinary Medical Examiners against Paul Cotton.
2. Abide by the Veterinary Practice Act and Rules of Professional Conduct duly promulgated by the Board.

M. L. Brittain D.V.M.
M. L. BRITTAIN, D.V.M.

Donald B. Wilson 8/16/86
Donald B. Wilson, Executive Secretary
TEXAS BOARD OF VETERINARY MEDICAL
EXAMINERS

Ernie M. Carroll
Witness