

DOCKET NO. 2013-87

IN THE MATTER OF § TEXAS BOARD OF  
THE LICENSE OF § VETERINARY  
JOEY BRYANT, D.V.M. § MEDICAL EXAMINERS

**AGREED ORDER**

On this date July 16, 2013, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Joey Bryant, 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. The findings of fact and conclusions of law shall have the same force and effect as if evidence and argument were presented in support of the findings of fact and conclusions of law, and based thereon, the Board found the allegations to be true. Respondent understands and intends that by so stating, she 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. 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. 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, Joey Bryant, D.V.M. of Kyle, Texas, holds Texas veterinary license 9787.
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. Respondent owns Plum Creek Veterinary Hospital ("Hospital") in Kyle, T

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4. On August 14, 2012, board investigators conducted an on-site compliance inspection at the Hospital and determined that the controlled substance log for morphine did not balance with the supply on hand.
5. On August 16, 2012, the Board received a letter from Respondent, in which she stated, "The reason my Morphine 25 mg/ml total volume is less than what is in my controlled drug log is because I used it. I ordered (7) 10 ml vials in 2011 (none this year), and all but 9 ml has been diverted by me."
6. Based on this information, Respondent has been chronically and habitually intoxicated, chemically dependent, or addicted to drugs.

### **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. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
2. Based on the above Findings of Fact, Respondent has violated Section 801.402 (3) of the Veterinary Licensing Act, Texas Occupations Code, GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION, which states a licensee is subject to disciplinary action for being chronically or habitually intoxicated, chemically dependent, or addicted to drugs.
3. 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:

- (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.

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 a FORMAL REPRIMANDED.

In addition, the Board ORDERS that Respondent enter into a Peer Assistance Contract under the Board's Peer Assistance Program for five years from the date of this Order. Respondent shall follow all recommendations of the Peer Assistance Program Coordinator. Respondent shall participate in and complete a relapse assessment with a mental health provider selected and

approved by the Peer Assistance Program. Respondent shall follow all recommendations of the assessment. In addition, at the request of a representative of the Board, with or without notice, Respondent shall submit to appropriate examinations, including screenings for alcohol and drugs, through either a saliva, urine, blood, sweat, or hair specimen, to determine by laboratory analysis whether Respondent is free of prohibited drugs and alcohol. Respondent shall pay any costs associated with these analyses. Respondent shall execute any and all releases for medical records necessary to evaluate compliance with this order and/or are necessary to effectuate this order. Any violation of the terms of the Contract subjects Respondent to possible immediate revocation of her license.

The Board further ORDERS that the license of Respondent is SUSPENDED for FIVE YEARS, with the entire suspension STAYED and Respondent placed on PROBATION.

During the probated suspension, Respondent shall abstain from the consumption of prohibited substances as defined below, except as prescribed by another physician to Respondent for legitimate and documented therapeutic purposes. As used in this provision, "consumption" means any manner of ingestion, including oral, injection, topical, inhalation, or otherwise. Prohibited substances, as used in this order, includes:

- 1) alcohol in any form;
- 2) Dangerous drugs, as defined in Chapter 483, Tex. Health & Safety Code;
- 3) Controlled substances, as defined in Chapter 481, Tex. Health & Safety Code;
- 4) Any substance, in any form, including over-the-counter (OTC) agents and food products, that may cause a positive drug or alcohol test.

The following is an illustrative, but not exclusive, list of prohibited substances:

- 1) Stimulants
- 2) Appetite suppressants
- 3) Medication for ADD/ADHD
- 4) Anti-anxiety agents
- 5) Antidepressants
- 6) Antihistamines
- 7) Anticholinergics
- 8) Antispasmodics
- 9) Recreational, mind-altering drugs
- 10) Any product containing pseudophedrine or epinephrine
- 11) Alcohol
- 12) Any product containing alcohol, including mouthwashes, cough medicines, after shave lotions, colognes, hand sanitizing formulas, and dietary and herbal supplements
- 13) Food containing any of the above and/or poppy seeds.

Within five days after receipt of this Board-signed Order, Respondent shall:

- 1) Provide to the General Counsel at TBVME a list of all prohibited substances that Respondent is currently consuming, whether by prescription or otherwise;

- 2) Give any treating physician or dentist a copy of this Order;
- 3) Cause any treating physician or dentist to report all prescriptions and orders for any prohibited substance within five days after the treating physician or dentist receives this Order. The report shall include the medical condition being treated; the supporting documentation, including lab results to substantiate the diagnosis; the substance prescribed, dispensed or administered; the amount of such substance; and any refills authorized.

During the term of this Order, Respondent shall:

- 1) Provide to the General Counsel for the Board a list of all subsequent prescriptions and any subsequent orders for prohibited substances within 24 hours after receipt of the subsequent prescription or order; and
- 2) Give any subsequent treating physician or dentist a copy of this Order within five days after the initiation of the treatment, and Respondent shall cause the subsequent treating physician(s) or dentist(s) to report all prescriptions and any orders for prohibited substances to the General Counsel of the Board no later than five days after receipt of this Order by the treating physician. The report shall include the medical condition being treated; the supporting documentation, including lab results to substantiate the diagnosis; the substance prescribed, dispensed or administered; the amount of such substance; and any refills authorized.

If Respondent consumes any prohibited substance in any form without prescription or order authorized by a physician for a legitimate medical purpose, Respondent shall immediately report Respondent's consumption in writing within 24 hours to the General Counsel of the Board.

A violation of this Order under this provision shall include: (1) a positive or a positive-dilute screen for prohibited drugs or alcohol, or a metabolite of prohibited drugs or alcohol; (2) an adulterated specimen; (3) a substituted specimen; or (4) a refusal or failure to submit to random screenings. Should a specimen be reported as negative-dilute, Respondent may be required to undergo additional testing and may be subject to further Board action. A violation may be based on drug and alcohol screening under the Peer Assistance Program or any other drug and/or alcohol testing.

- (a) Evidence of a violation of this Order under this provision and any other information related to Respondent's violation of this Order may be presented to Board representatives at an informal proceeding held in accordance with 22 Tex. Admin. Code, §575.29.
- (b) If the Board representatives at such informal proceeding determine that Respondent is in violation of this Order pursuant to this provision, the Board representatives may direct the Executive Director to immediately **REVOKE** Respondent's veterinary license. **THIS REVOCATION SHALL BE EFFECTIVE IMMEDIATELY WITHOUT THE NEED FOR A FORMAL HEARING BEFORE THE BOARD, A PANEL OF THE BOARD, OR THE STATE OFFICE OF**

**ADMINISTRATIVE HEARINGS OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE VETERINARY LICENSING ACT OR THE ADMINISTRATIVE PROCEDURE ACT. RESPONDENT WAIVES ANY SUCH HEARING OR ANY SUCH DUE PROCESS AND ALL RIGHTS OF APPEAL IN REGARD TO THE SUSPENSION.**

- (c) If Respondent is revoked under this provision, a Board representative shall file a formal complaint under Section of the Veterinary Licensing Act as soon as practicable, alleging the violations of this Order under this provision and seeking revocation of the Respondent's license. The formal complaint may also include allegations of other violations of this Order and violations of the Veterinary Licensing Act. The parties may resolve the issues by an agreed order, either before or after the filing of a formal complaint. **RESPONDENT DOES NOT WAIVE AND SPECIFICALLY RESERVES THE RIGHT TO A HEARING BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS, WITH ALL RIGHTS PROVIDED BY THE VETERINARY LICENSING ACT OR THE ADMINISTRATIVE PROCEDURE ACT AND THE RIGHT TO SEEK JUDICIAL REVIEW OF THE FINAL ORDER.**

Respondent shall be solely responsible for and promptly pay all costs and charges by any facility that conducts screens on Respondent pursuant to this Order to determine whether Respondent has ingested alcohol or drugs. Respondent's failure to promptly pay these costs shall constitute a violation of this Order and shall be grounds for further disciplinary action under the Act.

Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within 10 days of the address change. This information shall be submitted to the Director of Licensing and the General Counsel of the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

The Board further ORDERS that:

1. Respondent shall abide by the Board's 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. Failure to fully cooperate shall constitute a violation of this Order and a basis for disciplinary action against Respondent pursuant to the Act.
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, shall constitute a violation of this Order and a basis for disciplinary action against Respondent pursuant to the Act.

Respondent, by signing this Agreed Order, acknowledges her understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law set forth herein, 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 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.**

**THIS ORDER IS A PUBLIC RECORD.**

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

I, JOEY BRYANT, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING THIS ORDER, 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.

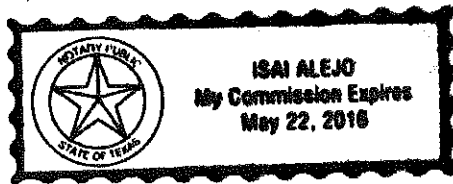
Joey Bryant, D.V.M.  
Joey Bryant, D.V.M.

5/10/13  
Date

STATE OF TEXAS §  
COUNTY OF Travis §

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

Given under the hand and seal of office this 10<sup>th</sup> day of May, 2013.



[Signature]  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 16 day of July, 2013.

[Signature]  
Bud E. Alldredge, Jr., D.V.M., President