

DOCKET NO. 2011-78

IN THE MATTER	§	TEXAS STATE BOARD OF
OF THE LICENSE OF	§	
LU ANN ERVIN, D.V.M.	§	VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this, the 18 day of OCTOBER, 2011, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of LU ANN ERVIN, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on July 26, 2011 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 801.2056 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. The Board has jurisdiction over the subject matter and Respondent. Respondent has received all notices which may be required by law and by the Board's rules. All jurisdictional requirements have been satisfied.
2. As the result of notification by the Texas Department of Public Safety (DPS), the Board determined that Respondent could not show proof of current registration with the DPS. According to DPS, Respondent's controlled substance registration expired on March 31, 2010. DPS issued a new certification on November 3, 2010. Respondent admitted that she administered, dispensed, and prescribed controlled substances during that period of time.

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.

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2. Based on Findings of Fact 1 and 2, Respondent has violated Rule 573.43, MISUSE OF DEA NARCOTICS 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 DEA and the DPS.

3. Based on 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 2 and 3, 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:

The Board ORDERS that Respondent pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of five hundred dollars (\$500.00). 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.

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 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.

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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, LU ANN ERVIN, 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.

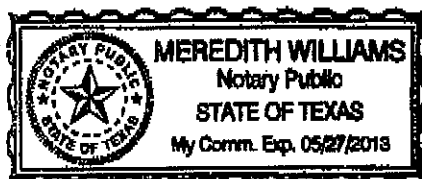
Lu Ann Ervin, D.V.M.
Lu Ann Ervin, D.V.M.

9-21-11
DATE

STATE OF TEXAS
COUNTY OF McLennan

BEFORE ME, on this day, personally appeared Lu Ann Ervin, 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.

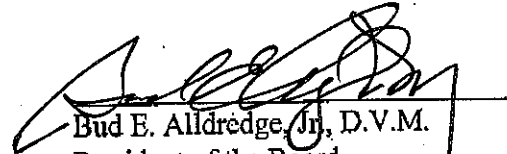
Given under the hand and seal of office this 21st day of September 2011.



Meredith Williams
Notary Public

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SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL
EXAMINERS on this the 18 day of October, 2011.



Bud E. Alldredge, Jr., D.V.M.
President of the Board