

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 and 2, Respondent has violated Rule 573.50, CONTROLLED SUBSTANCES RECORDS KEEPING FOR DRUGS ON HAND, of the Board's Rules of Professional Conduct, which states that a licensee shall maintain at their place of business records of all scheduled drugs listed in the Texas Controlled Substances Act in their possession. These records shall be maintained for a minimum of five years and contain specific information outlined in the rule including the balance on hand.
3. Based on Finding of Fact 3, Respondent has violated Rule 573.41 USE OF PRESCRIPTION DRUGS, of the Board's Rules of Professional Conduct, which states that it is unprofessional conduct for a licensed veterinarian to prescribe or dispense, deliver, or order delivered, any prescription drug without first having established a veterinarian/client/patient relationship and determined that such prescription drug is therapeutically indicated for the health and/or well-being of the animal(s).
4. Based on Findings of Fact 1 and 2, Respondent has violated Section 801.359 of the Veterinary Licensing Act, Texas Occupations Code, which states the board shall require each veterinarian to maintain a recordkeeping system for controlled substances as required by Chapter 481, Health and Safety Code.
5. Based on Conclusions of Law 1 through 3, 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.

6. Based on Conclusions of Law 1 through 5, 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.

7. Based on Conclusions of Law 1 through 5, 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, and in the manner set out in Section 801.401 DISCIPLINARY POWER OF BOARD.

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 TWENTY FIVE HUNDRED dollars (\$2,500.00). If Respondent fails to pay the administrative penalty within 45 days of the date of this Order, Respondent's license shall be suspended until the penalty is paid.

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Martin E. Garcia, D.V.M., be INFORMALLY REPRIMANDED.

The Board further ORDERS Respondent complete an additional THREE (3) hours of continuing education in recordkeeping 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.

In lieu of disciplinary action, Respondent may choose to voluntarily surrender his veterinary license and not renew his license in 2012.

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.

Respondent, by signing this Agreed Order, acknowledges his understanding of the Agreed Order, the notice, Findings of Fact and Conclusions of Law herein set forth, 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 hearing and any right to seek judicial review of this Order. Respondent acknowledges that he is entitled to be represented by an attorney of Respondent's choice at his 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, MARTIN E. GARCIA, 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.

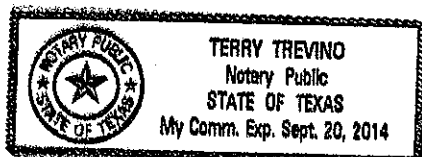
Martin E. Garcia DVM
Martin E. Garcia, D.V.M.

May 12, 2011
DATE

STATE OF TEXAS
COUNTY OF *WILLACK*

BEFORE ME, on this day, personally appeared Martin E. Garcia, D.V.M., known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me that he executed the same for the purposes stated therein.

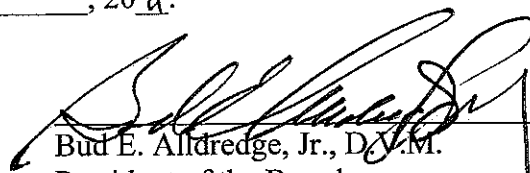
Given under the hand and seal of office this *12th* day of *May*, 20*11*



Terry R Trevino
Notary Public

Martin E. Garcia, D.V.M.
Agreed Order 2011-70
Page 5

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL
EXAMINERS on this the 25 day of June, 2011.



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