

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

AGREED ORDER

On this day the Texas Board of Veterinary Medical Examiners (“Board”) considered the matter of the license of Michael Andrews, D.V.M. (“Respondent”).

On June 12, 2019, the Board’s Executive Disciplinary Committee (“EDC”) convened without notice to Respondent, pursuant to Section 801.409 of the Veterinary Licensing Act, Texas Occupations Code, and Board Rule 575.35. The EDC entered an Order of Temporary Suspension.

On June 25, 2019, a panel of the Board’s Enforcement Committee (“EC”) convened with notice to Respondent, pursuant to Section 801.409 of the Veterinary Licensing Act, Texas Occupations Code, and Board Rule 575.35. The EC entered an Order Continuing Temporary Suspension.

Respondent, without admitting the truth of the Findings of Fact and Conclusions of Law set out in this Order, waived notice and hearing and agreed to the entry of this Order. Accordingly, the Board makes the following Findings of Fact and Conclusions of Law and enters this Order as set forth below.

FINDINGS OF FACT

1. Respondent, Michael Andrews, D.V.M., of Emory, Texas, holds Texas veterinary license 2862.
2. Respondent has repeatedly directed and permitted a veterinary assistant to perform surgeries, including feline neuters and tooth extractions using an elevator. Respondent has also permitted a veterinary assistant to examine and diagnose animals without supervision.
3. On March 6, 2019, a veterinary assistant performed an unsupervised dental cleaning and attempted extractions on Shadow Jacobs, an approximately 6-year-old male dachshund with potential underlying medical conditions. Shadow’s owner stated that she had not given consent for extractions and was not aware a non-veterinarian would be performing the procedure. During the procedure, the veterinary assistant broke the patient’s jaw and the patient died despite resuscitation attempts. The medical records do not include accurate information regarding who performed the procedure, the anesthetic protocol administered, or the broken jaw. Respondent did not disclose the circumstances of Shadow’s death to the dog’s owner.
4. On June 3-5, 2019, Board investigators conducted an inspection of Respondent at Emory Veterinary Clinic (“the facility”) in Emory, Texas. Respondent co-owns the facility with Samantha

Gibbs, D.V.M. The inspection revealed numerous medical records with inaccurate or inadequate information. Several records of surgical procedures did not document temperature or weight. Medical records documenting prescriptions did not include details of an examination or diagnosis, and did not indicate that the prescriptions were therapeutically indicated for the health and wellbeing of the animals.

5. The inspection also revealed that Respondent's controlled substance records did not include an accurate balance on hand for Beuthanasia. The controlled substance record showed a balance of 175 mL on hand, but the actual balance on hand was 375mL.

6. The inspection also revealed that Respondent had not complied with numerous Drug Enforcement Administration (DEA) regulations regarding controlled substances. Respondent had not performed a required biennial inventory of controlled substances, as required by 21 CFR §1304.11, and had not maintained receipt records for controlled substances, as required by 21 USC §842(a)(5) and 21 CFR §1304.04. Respondent also accepted "returns" of controlled substances which had been previously dispensed to clients, in violation of 21 CFR §1317.15(a).

7. Additionally, the inspection revealed that Respondent had dispensed 10mL of ketamine to another veterinarian, who was not a DEA registrant, for use in that veterinarian's practice, in violation of 21 CFR §1307.11.

8. The inspection also revealed that controlled substances were stored in a metal filing cabinet rather than in a safe or substantially constructed cabinet, in violation of 21 CFR 1301.75(b).

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Chapter 801, the Board has jurisdiction over this matter. Respondent is required to comply with the provisions of the Veterinary Licensing Act, Chapter 801, Texas Occupations Code, and with the Board's Rules. Respondent received notice as required by law.

2. Respondent has violated Board Rule 573.10, Supervision of Non-Veterinarians, of the Board's Rules of Professional Conduct.

3. Respondent has violated Board Rule 573.11 Responsibility for Unlicensed Employees, of the Board's Rules of Professional Conduct.

4. Respondent has violated Board Rule 573.22, Professional Standard of Care, of the Board's Rules of Professional Conduct.

5. Respondent has violated Board Rule 573.27, Honesty, Integrity, and Fair Dealing, of the Board's Rules of Professional Conduct.

6. Respondent has violated Board Rule 573.4, Adherence to the Law, of the Board's Rules of Professional Conduct.

7. Respondent has violated Board Rule 573.41, Use of Prescription Drugs, of the Board's Rules of Professional Conduct.
8. Respondent has violated Board Rule 573.50, Controlled Substances Records Keeping for Dugs on Hand, of the Board's Rules of Professional Conduct.
9. Respondent has violated Board Rule 573.52, Veterinarian Patient Records Keeping, of the Board's Rules of Professional Conduct.
10. Respondent has violated Board Rule 573.61, Minimum Security for Controlled Substances, of the Board's Rules of Professional Conduct.
11. Respondent has violated Section 801.402(4) of the Veterinary Licensing Act, Texas Occupations Code, prohibiting dishonest or illegal practices in, or connected with, the practice of veterinary medicine.
12. Respondent has violated Section 801.402(6) of the Veterinary Licensing Act, Texas Occupations Code, prohibiting practices that violate the Board's rules of professional conduct.
13. Respondent has violated Section 801.402(16) of the Veterinary Licensing Act, Texas Occupations Code, prohibiting gross malpractice or a pattern of acts that indicate consistent malpractice, negligence, or incompetence in the practice of veterinary medicine.
14. Respondent is subject to disciplinary action under Texas Occupations Code, Sections 801.401(a), and 801.451.
15. Pursuant to Board Rule 575.25, Respondent's violations are Class A violations, and Respondent is subject to disciplinary action under that Rule.

TERMS OF ORDER

Now, therefore, the Board and Respondent agree to the following terms:

1. **SUSPENSION AND PROBATION**
 - a. Respondent's license shall be suspended for 5 years, effective retroactively from the date of emergency temporary suspension, with said suspension stayed after six months and Respondent placed on probation for the remaining period of the suspension.
 - i. During the period of the enforced suspension, the following terms shall apply:
 1. Respondent shall not practice nor give the appearance of practicing veterinary medicine.

2. Respondent shall not supervise nor give the appearance of supervising other licensees or unlicensed employees in the practice of veterinary medicine.
 3. Respondent shall notify all present and prospective employers of this Order. Respondent shall cause employers to provide written acknowledgement to the Board that they have read and understood the Order, including the provision that Respondent shall not practice nor give the appearance of practicing veterinary medicine. This acknowledgement must be provided within 30 days of the effective date of the Order for present employers, or within 15 days of undertaking new employment. This acknowledgment shall be submitted to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701.
 4. Respondent shall notify all Board licensees with whom Respondent practices of the Order. Respondent shall provide written acknowledgement to the Board that Respondent provided this notice. This acknowledgment must be provided within 30 days of the effective date of the Order, or within 15 days of undertaking new employment. This acknowledgment shall be submitted to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701.
 5. Respondent's clinic and facilities may be used by Respondent for administrative purposes only. Administrative purposes include opening mail, referring patients, accepting payments on accounts, and general office tasks. Respondent shall exercise extreme caution and not be persuaded, coerced, or otherwise drawn by anyone to practicing or even giving the appearance of practicing veterinary medicine.
- ii. During the period of probation, the following terms shall apply:
1. For the first year of the probation period, Respondent shall practice only under the general supervision of a licensed veterinarian. Respondent shall obtain prior written approval from the Board's Executive Director for any supervising veterinarian.
 2. Respondent shall notify all present and prospective employers of this Order. Respondent shall cause employers to provide written acknowledgement to the Board that they have read and understood the Order. This acknowledgement must be provided within 30 days of the effective date of the Order for present employers, or within 15 days of undertaking new employment. This acknowledgment shall be submitted to the Texas Board of Veterinary Medical

Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701.

- b. If Respondent does not timely and satisfactorily comply with any of the terms of this Order, the Board may rescind Respondent's probation pursuant to Board Rule 575.36.

2. REPRIMAND

- a. Respondent is hereby formally reprimanded by the Board. This formal reprimand may be published in the Board's newsletter and routinely reported to the American Association of Veterinary State Boards (AAVSB) for inclusion in the national reporting database.

3. ADMINISTRATIVE PENALTY

- a. Respondent shall pay an administrative penalty of six thousand and five hundred dollars (\$6,500.00) within 30 days of the date the Board approves this Order. Payment shall be made directly to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701. Partial payments will not be accepted.
- b. If Respondent does not timely pay the administrative penalty, the Board may deny a request to renew Respondent's license until the outstanding administrative penalty is received, pursuant to Board Rule 573.62(b). Any monetary funds paid to the Board to renew a license shall first be applied to any outstanding unpaid administrative penalties, pursuant to Board Rule 571.57. Additionally, the matter may be referred to the Attorney General for collection, pursuant to Texas Occupations Code, Section 801.458.

4. CONTINUING EDUCATION

- a. In addition to the annual continuing education required for license renewal, Respondent shall complete twelve (12) hours of continuing education within one year of the date the Board approves this Order. These continuing education hours shall include: three (3) hours in the area of patient record keeping, three (3) hours in the area of anesthesia, three (3) hours in the area of dentistry, and three (3) hours in the area of critical care including one (1) hour in CPR. Respondent may begin acquiring the required hours upon signing this Order, and those hours will count toward the total hours required even if they're obtained before the date the Board approves this order. Respondent shall submit documentation of the completed continuing education penalty and the required annual continuing education to the Board within one year of the date the Board approves this Order. Documentation shall be submitted directly to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701.

5. JURISPRUDENCE EXAMINATION

- a. Respondent shall successfully complete the Disciplinary Jurisprudence Examination within 30 days of the date the Board approves this Order. The Disciplinary Jurisprudence Examination can be purchased and taken online at www.texaselearning.com. Respondent shall submit documentation of the completion certificate to the Board within 45 days of the date the Board approves this Order. Documentation shall be submitted directly to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701.

6. ADHERENCE TO THE LAW AND BOARD RULES

- a. 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.
- b. Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this Order.
- c. Failure by Respondent to comply with the terms of this Order, or with any other provisions of the Veterinary Licensing Act or the Board Rules, may result in further disciplinary action.

The effective date of the terms of this Order shall be the date it is adopted by the Board, unless stated otherwise.

Certification and signature page follows.

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Order. I have reviewed this Order and understand the Findings of Fact and Conclusions of law set forth herein. I understand that this Order contains the entire agreement, and there is no other agreement of any kind. I waive the right to any further proceedings, including a formal hearing, and the right to seek judicial review of this Order.

I understand that this Order is subject to approval by the Board. I understand that the terms and conditions of this Order become effective upon approval by the Board. A copy of the approved Order will be mailed to me. By signing this Order, I agree to satisfactorily comply with the terms and conditions of the Order in a timely manner. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and appropriate disciplinary action as a result of my noncompliance.

Signed this 29 day of July, 2019.


Michael Andrews, D.V.M.

Sworn and subscribed before me this _____ day of _____, 20____.

SEAL:

* See Attachment for California Notary
Notary Public

THEREFORE, the Texas Board of Veterinary Medical Examiners does hereby adopt this Order. This Order is effective and final on this 15 day of October, 2019.


Jessica Quillivan, D.V.M., Presiding Board Member

JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Ventura

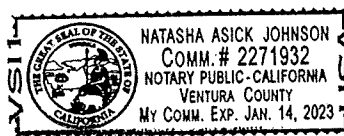
Subscribed and sworn to (or affirmed) before me on this 29th day of July,
2019 by Michael Lee Andrews

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature



(Seal)



OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Respondent's Certification
(Title or description of attached document)

Docket # AK 2019-108
(Title or description of attached document continued)

Number of Pages 8 pages Document Date 07/29/19

Additional information

INSTRUCTIONS

The wording of all Jurats completed in California after January 1, 2015 must be in the form as set forth within this Jurat. There are no exceptions. If a Jurat to be completed does not follow this form, the notary must correct the verbiage by using a jurat stamp containing the correct wording or attaching a separate jurat form such as this one with does contain the proper wording. In addition, the notary must require an oath or affirmation from the document signer regarding the truthfulness of the contents of the document. The document must be signed AFTER the oath or affirmation. If the document was previously signed, it must be re-signed in front of the notary public during the jurat process.

- State and county information must be the state and county where the document signer(s) personally appeared before the notary public.
- Date of notarization must be the date the signer(s) personally appeared which must also be the same date the jurat process is completed.
- Print the name(s) of the document signer(s) who personally appear at the time of notarization.
- Signature of the notary public must match the signature on file with the office of the county clerk.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different jurat form.
 - ❖ Additional information is not required but could help to ensure this jurat is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
- Securely attach this document to the signed document with a staple.