

DOCKET NO. 2005-45

IN THE MATTER OF § TEXAS STATE BOARD OF
THE LICENSE OF §
ANGUS MACDONALD, D.V.M. § VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 9th day of June, 2005, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Angus MacDonald, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on May 5, 2005. The Respondent attended without counsel. The Board was represented at the conference by the Board's Enforcement Committee.

Respondent, without admitting the truth of the findings and conclusions set out in this Agreed Order, wishes to waive a formal adjudicative hearing and thereby informally dispose of the issues without a formal adjudication. Respondent agrees to comply with the terms and conditions set forth in this Order. In waiving an adjudicative hearing, Respondent acknowledges his understanding of the alleged violations and the adequacy and sufficiency of the notice provided to him.

Upon the recommendation of the Enforcement 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. On June 24, 2004, the Board received information from Noor Janjwani, a pharmacist at Walgreens Pharmacy, Flower Mound, Texas, alerting the Board to the fact that Angus MacDonald, D.V.M., Dallas, Texas, could be diverting controlled substances (hydrocodone) to personal use. Prescriptions were noted for the dogs "Rudy" Cox and "Gala" Ortiz. "Gala" was owned by Miguel Ortiz, a veterinary technician at Dr. McDonald's clinic, and "Rudy" was a dog adopted from Dr. MacDonald's daughter Tabitha Cox.
2. During an interview with Board investigator Dennis Barker and DEA investigator Zoraida Gonzalez, Dr. MacDonald admitted to diverting hydrocodone/apap 10/325, for his own use on numerous occasions. He stated that the prescriptions were not noted in the dogs' medical records or reflected in his controlled substances log book. In addition to securing hydrocodone from Walgreens, Dr. MacDonald also bought the drug from Miller Veterinary Supply Company and Eckerd Drug. From January, 2004 through June, 2004, Dr. MacDonald received through prescriptions approximately 476 tablets of hydrocodone/apap 10/325. Dr. MacDonald attributed his use of hydrocodone to back pain.

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3. On June 30th, investigators Barker and Gonzalez interviewed Dr. MacDonald's wife. She confirmed that Dr. McDonald diverted drugs for his own use. Mrs. MacDonald provided investigators with a copy of an invoice for hydrocodone dated June 11, 2004, from Miller Veterinary Supply Company.
4. On June 30th, Dr. MacDonald voluntarily surrendered 46 tablets of hydrocodone to investigators Barker and Gonzales, and flushed them down the toilet. All other controlled substances, including 1004 ml of ketamine, were also supposedly destroyed. Dr. MacDonald surrendered his DEA controlled substances registration. On July 1st, investigator Barker coordinated with Dr. Herbert Munden, M.D., regarding Dr. MacDonald's drug diversions. Dr. Munden indicated that he would contact Dr. MacDonald about entering a treatment program.
5. On July 28, 2004, Jennifer Houck, D.V.M., contacted the Board about Dr. MacDonald. She reported that while she was working as a relief veterinarian at Dr. MacDonald's clinic during the week of July 19th, she discovered the existence of Telazol, Phenobarbitol, and Ketamine at Dr. MacDonald's clinic. Employees of the clinic told Dr. Houck that they had hidden Ketamine after June 30th, and that Dr. MacDonald self-administered Phenobarbitol to minimize the effects of withdrawal from hydrocodone. Dr. Houck was also told that Miguel Ortiz, Jr., a veterinary technician, was diagnosing animals and performing medical procedures on animals during office hours.
6. On August 6, 2004, Board investigator Dennis Barker and DEA investigator Zoraida Gonzalez interviewed Maria Alba, Dr. MacDonald's receptionist, and Mr. Ortiz. These employees confirmed the statements of Dr. Houck, including the allegation that Mr. Ortiz diagnosed animals and performed vaccinations without supervision by a veterinarian. The investigators discovered drugs on the premises, including Phenobarbitol and Telazol. Dr. MacDonald's wife was interviewed and she produced a bag of controlled substances that had been delivered to the MacDonald residence by Mr. Ortiz after June 30th.
7. On July 2nd, Dr. MacDonald was apprehended by officers of the Lewisville Police Department and charged with driving while intoxicated. Following his release from jail, Dr. MacDonald entered a Georgia facility for treatment of prescription pain killer abuse. Dr. MacDonald reported that he successfully completed the 14-week program. Because he was in the recovery program, Dr. MacDonald was not available for interviews by Board and DEA investigators on August 6th. Dr. MacDonald is currently practicing veterinary medicine without controlled substances.

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, 2, 3, and 5, Dr. MacDonald has violated Board Rule 571.41, USE OF PRESCRIPTION DRUGS, by prescribing and dispensing prescription drugs that are not therapeutically indicated for the health of animals, and Board Rule 573.60, PROHIBITION AGAINST TREATMENT OF HUMANS, of the Board's Rules of Professional Conduct, by prescribing and dispensing drugs for personal use by a human

3. Based on Findings of Fact 5 and 6, by continuing to possess and use controlled substances after surrendering his DEA registration on June 30, 2004, Dr. MacDonald has violated Board Rule 573.4, ADHERENCE TO THE LAW, of the Board's Rules of Professional Conduct, which prohibits any act by a veterinarian that is in violation of the laws of Texas or the United States.

4. Based on Finding of Fact 5 and 6, Dr. MacDonald has violated Board Rule 573.10, SUPERVISION OF NON-LICENSED EMPLOYEES, which prohibits the improper supervision of non-licensed employees by a veterinarian and/or the improper delegation of veterinary treatment responsibilities to non-licensed persons.

5. Based on Conclusions of Law 1 through 4, Dr. MacDonald 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.

7. 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:

- 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 a civil 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 Angus MacDonald be OFFICIALLY REPRIMANDED.

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The Board further ORDERS that Respondent's license be SUSPENDED for a period of two years from the date of this Order.

The Board further ORDERS that the Respondent's license suspension be STAYED and Respondent be placed on PROBATION for the entire period of the suspension.

The Board further ORDERS that the Respondent provide, on a quarterly basis, a written report to the Board on the status of the Respondent's practice and his compliance with this Order.

The Board further ORDERS that the Respondent comply with the conditions of the peer assistance and treatment program in which he is currently participating. Should Respondent cease participating in or complying with the program, he shall immediately inform the Board.

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 provisions of the Licensing 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, and Findings of Fact and Conclusions of Law herein set forth herein, 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 formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that he is not represented by legal counsel in this matter.

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. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR UNDER THE UNITED STATES OR TEXAS CONSTITUTIONS TO APPEAL AN ORDER OR ACTION OF THE BOARD SUBSEQUENT TO THIS AGREED ORDER EXCEPT AS RESPONDENT MAY HAVE OTHERWISE AGREED TO HEREIN. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

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RECEIVED
MAY 20 2005

The effective date of this Agreed Order shall be the date it is adopted by the ~~Board~~ ^{TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS}

I, **ANGUS MACDONALD**, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND 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.

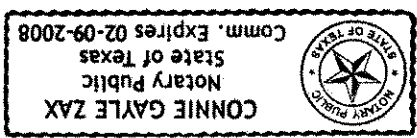
Angus MacDonald
Angus MacDonald, D.V.M.

5-17-05
Date

STATE OF TEXAS §
COUNTY OF Dallas §

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

Given under the hand and seal of office this 17 day of May, 2005.



Connie Gayle Zax
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 9th day of June, 2005.

Gary C. Brantley
Gary C. Brantley, D.V.M., President