

DOCKET NO. 2006-20

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IN THE MATTER § TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS
OF THE LICENSE OF §
JACKIE A. VALERIUS, D.V.M. § VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this, the 15th day of June, 2006, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of JACKIE A. VALERIUS, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on January 25, 2006 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 his understanding of the alleged violations and the adequacy and sufficiency of the notice mailed to him.

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 notice which may be required by law and by the Board's rules. All jurisdictional requirements have been satisfied.
2. On or before December 15, 2005, the Board received information that John G. Montalbano, Harlingen, Texas, had practiced veterinary medicine without a license at the AA Animal Clinic, Harlingen, Texas, owned by Jackie A. Valerius, D.V. M. On December 15th, Board investigator Michael Miller conducted an on-site investigation at the AA Animal Clinic. Signed statements from Beatrice Rodriguez, the clinic's practice manager, and Mr. Montalbano, indicated that Mr. Montalbano had been involved in the unlicensed practice of veterinary medicine at the clinic with the knowledge of Dr. Valerius. Patient records supported these statements.
3. Dr. Valerius, in a sworn statement dated December 15, 2005, said that "some procedures done in the past could be construed as being the practice of veterinary medicine by John Montalbano." He further stated that "there will be no further practicing of veterinary medicine by an unlicensed person under my supervision or at my practice facility from this day (12-15-05) forward."

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 2 and 3, Dr. Valerius has violated Rule 573.11 RESPONSIBILITY FOR UNLICENSED AND LICENSED EMPLOYEES, of the Board's Rules of Professional Conduct, which states that a veterinarian who employs and/or supervises an unlicensed person shall be responsible for any acts of the unlicensed person committed within the scope of the person's employment that constitute the unauthorized practice of veterinary medicine.

3. Based on Findings of Fact 2 and 3, Dr. Valerius has violated Rule 573.10 SUPERVISION OF NON-LICENSED EMPLOYEES, of the Board's Rules of Professional Conduct, by allowing an unlicensed person under his supervision to perform surgery and other acts constituting the practice of veterinary medicine.

4. Based on Conclusions of Law 1, 2, and 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.

5. Based on Conclusions of Law 1 through 4, Respondent may be disciplined in the manner set out in Section 801.401 DISCIPLINARY POWER OF BOARD, of the Veterinary Licensing Act.

NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

The Board ORDERS that Respondent be formally REPRIMANDED.

The Board further ORDERS that, beginning on June 19, 2006, Respondent's license be SUSPENDED for 24 months, with said SUSPENSION STAYED and Respondent placed on PROBATION for 22 months, said stay and probation to begin on the 61st day from June 19, 2006. This means for the first 60 days beginning on June 19th, Respondent may not practice veterinary medicine. Beginning on the 61st day from June 19th and continuing for 22 months, Respondent will be on PROBATION but may practice veterinary medicine. At the end of 22 months, the PROBATION will be lifted and Respondent may practice veterinary medicine without restriction, assuming that all conditions of this ORDER have been met.

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The Board further ORDERS that Respondent pay, within 60 days of the date of this Order, an ADMINISTRATIVE PENALTY of FIVE THOUSAND DOLLARS (\$5000.00). If Respondent fails to pay the administrative penalty within 60 days of the date of this Order, Respondent's license shall continue in suspension 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.

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 proceeding 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. 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.

The date of this Agreed Order shall be the date it is adopted by the Texas Board of Veterinary Medical Examiners.

I, JACKIE A. VALERIUS, 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

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ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

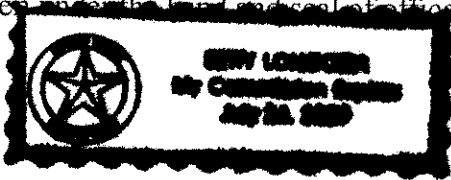
Jackie A. Valerius, D.V.M.
Jackie A. Valerius, D.V.M.

4-14-06
DATE

STATE OF TEXAS
COUNTY OF Tarrant

BEFORE ME, on this day, personally appeared Jackie A. Valerius, 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 14 day of April, 2006



Betty Longoria
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 15th day of June, 2006.

Robert L. Lastovica, DVM
Robert L. Lastovica, D.V.M.
President of the Board