

has not had a DPS registration since 1998 when he retired from military duty and re-activated his license.

4. Counsel for Dr. Gaither presented an argument challenging the legality of the Board's collection of a fine for DPS registration violations. Dr. Gaither agreed to accept a \$500.00 fine if the Board would request an Attorney General's opinion on the legality of the Board's Rule 573.43 and the Attorney General would find that the rule is valid. The Board's legal counsel agreed to request an opinion and subsequently did so.

5. By opinion dated May 10, 2007, the Attorney General in Opinion GA-0547 held that the Board is authorized to adopt a rule that prohibits a Board licensee from dispensing any controlled substance unless the licensee is registered to do so with the Texas Department of Public Safety.

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, 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 he 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 shall 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.

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. 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.

Agreed Order 2006-26
Richard Gaither, D.V.M.
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I, RICHARD GAITHER, 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.

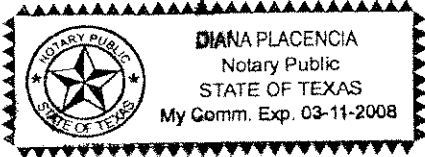

Richard Gaither, D.V.M.

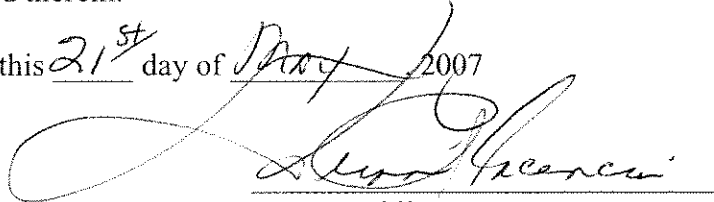
5/21/07
DATE

STATE OF TEXAS
COUNTY OF BELTAR

BEFORE ME, on this day, personally appeared Richard Gaither, 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 21st day of May 2007




Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 14th day of June, 2007.


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