

IN THE MATTER OF	§	TEXAS BOARD OF
THE LICENSE OF	§	VETERINARY
EDDIE J. HAYES, D.V.M.	§	MEDICAL EXAMINERS

**AGREED ORDER**

On this the 25 day of March, 2013, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Eddie J. Hayes, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code, and Board Rule 575.29, an informal conference was held on January 9, 2013. Although he received notice of the informal conference, Respondent did not attend and was not represented by 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. Respondent, Eddie J. Hayes, D.V.M. of Sinton, Texas, holds Texas veterinary license 8049.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent received notice, which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied under Tex. Occ. Code Ann. Title 4 ("Act"). By entering into this Agreed Order, Respondent waives any defect in the notice and any further right to notice and hearing under the Act; Tex. Gov't Code Ann. §§ 2001.051-.054; and the Rules of the Texas Board of Veterinary Medical Examiners ("Board Rules") (22 Tex. Admin. Code, Chapter 575).

3. Respondent signed a contract to begin working with Furry Friends Animal Hospital ("Furry Friends") on September 15, 2011 and reported to the Board that he began working as a veterinarian at Furry Friends on October 24, 2011.
4. Furry Friends is owned by Blue Horizon Venture, LLC, a management services company that is not owned by a veterinarian licensed in Texas.
5. Under the terms of the contract between Respondent and Furry Friends, Furry Friends paid Respondent a base salary of \$400 per day, paid the employer's share of payroll taxes on Respondent's salary, gave Respondent a set \$1000 allowance to take continuing education, and dictated that Respondent could have time off when approved by Furry Friends.
6. The contract between Respondent and Furry Friends further stated that Furry Friends set the prices charged for Respondent's veterinary services, owned the patient records, and owned prescription drugs that Respondent prescribed and administered to patients.
7. The contract between Respondent and Furry Friends also prohibited Respondent from working as a veterinarian in Harlingen, Texas, offering to treat any former or existing client of Furry Friends, and from attempting to influence any client of Furry Friends to terminate his or her relationship with Furry Friends for a period of two years after the end of the contract.
8. Respondent stopped working at Furry Friends sometime between December 16, 2011 and January 30, 2012, after the commencement of the Board's investigation into this case.

### **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 through 8, Respondent has violated Rule 573.6, RESTRICTION OF PARTNERSHIPS TO MEMBERS OF THE PROFESSION, of the Board's Rules of Professional Conduct, which states that a veterinarian may not form a partnership to practice veterinary medicine with anyone who is not a licensed veterinarian.
3. Based on Findings of Fact 1 through 8, Respondent has violated Rule 573.21, DIRECT RESPONSIBILITY TO CLIENT, of the Board's Rules of Professional Conduct, which states that a veterinarian shall avoid all relationships which could result in interference or intervention in the licensee's practice by a non-licensed person or entity.
4. Based on Findings of Fact 1 through 8, Respondent has violated Rule 573.73, MANAGEMENT SERVICES ORGANIZATIONS IN VETERINARY PRACTICE, of the Board's Rules of Professional Conduct, which states that a veterinarian may not contract with a management services organization that controls or interferes in the veterinarian's practice of veterinary medicine by means including but not limited to employing the veterinarian to practice

veterinary medicine, determining the compensation of a veterinarian for the practice of veterinary medicine, owning drugs, owning and controlling the records of patients of the veterinarian, and determining the fees to be charged by the veterinarian for the veterinarian's practice of veterinary medicine.

5. Based on Findings of Fact 1 through 8, Respondent has violated Section 801.352 of the Veterinary Licensing Act, which prohibits a veterinarian from being exploited by a person who is not a veterinarian and intervenes in the veterinarian's practice of veterinary medicine or between the veterinarian and the veterinarian's client.

6. Based on Findings of Fact 1 through 8, Respondent has violated Section 801.506 of the Veterinary Licensing Act, Texas Occupations Code, which prohibits a corporation, organization, partnership, association or other legal entity not owned exclusively by persons licensed to practice veterinary medicine from engaging in the practice of veterinary medicine, and forbids veterinarians from forming or continuing partnerships with persons who are not licensed to practice veterinary medicine if a part of the partnership employment consists of the practice of veterinary medicine.

7. Based on Findings of Fact 1 through 8 and Conclusions of Law 1 through 6, Respondent has violated Sections 801.402 (4) and (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:...

(4) engages in...illegal practices in, or connected with, the practice of veterinary medicine or the practice of equine dentistry;...

(6) engages in practice or conduct that violates the board's rules of professional conduct

8. Based on Conclusions of Law 1 through 7, 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.

9. Based on Conclusions of Law 1 through 7, 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:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent receive a FORMAL REPRIMAND.

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 may be suspended until the penalty is paid, and any payment by the Respondent to the Board to renew his license will be applied toward the payment of any administrative fee owed to the Board, and further enforcement action may be taken.

The Board further ORDERS that Respondent shall take and pass the Texas veterinary jurisprudence examination within 90 days from the date of this Agreed Order.

The Board further ORDERS that:

1. Respondent shall abide by the Rules of Professional Conduct, the Texas Veterinary Licensing Act, the laws of the State of Texas, and the laws of 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 Agreed 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 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 had the right to be 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. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

The effective date of this Agreed Order shall be the date it is adopted by the Board.

I, EDDIE J. HAYES, 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.

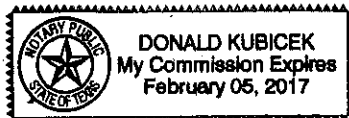
Eddie J. Hayes, D.V.M.  
EDDIE J. HAYES, D.V.M.

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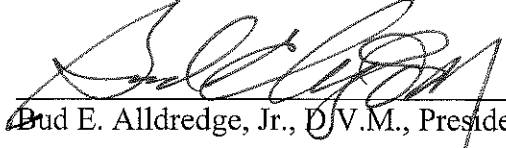
STATE OF TEXAS §  
COUNTY OF San Patricio §

BEFORE ME, on this day, personally appeared Eddie J. Hayes, 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 13<sup>th</sup> day of February, 2013.  
[Signature]  
Notary Public



SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL  
EXAMINERS on this the 25<sup>th</sup> March, 2013.

  
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Bud E. Alldredge, Jr., D.V.M., President