DOCKET NO. 2014-123

IN THE MATTER OF $ TEXAS BOARD OF
THE LICENSE OF $ VETERINARY
DAVID R. HELCEL, D.V.M. $ MEDICAL EXAMINERS

AGREED ORDER

On this the __ day of __________, 2014, came on to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of DAVID R. HELCEL, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on February 27, 2014, 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. Respondent, DAVID R. HELCEL, D.V.M. of Houston, Texas, holds Texas veterinary License 11365.

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. On September 10, 2013, the Board opened a complaint regarding Respondent, who was employed by the Paws Pet Resort in Houston, Texas. Paws Pet Resort was owned by Jamie Cupps, who is not a licensed veterinarian.

4. Respondent provided that Mrs. Cupps would book appointments, collect payments, reorder supplies, and manage payroll taxes. He further stated that he was paid a set $400 per shift worked.

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 4, 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.

3. Based on Findings of Fact 1 through 4, 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 controlling or intervening in a veterinarian’s selection or use of type or quality of medical supplies and pharmaceuticals to be used in the practice of veterinary medicine, owning drugs, or determining the fees to be charged by the veterinarian, placing limitations or conditions upon communications that are clinical in nature with the veterinarian’s clients.

4. Based on Findings of Fact 1 through 4, 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.

5. Based on Findings of Fact 1 through 4, 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.

6. Based on Conclusions of Law 1 through 3, Respondent has violated Section 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 dishonest or illegal practices in, or connected with, the practice of veterinary medicine or the practice of equine dentistry; ...

(6) engages in practices or conduct that violates the board’s rules of professional conduct.

7. Based on Conclusions of Law 1 through 4, 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 an administrative penalty.

8. Based on Conclusions of Law 2 through 5, 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 DAVID R. HELCEL, D.V.M., be FORMALLY REPRIMANDED.

The Board ORDERS that Respondent pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of one thousand dollars ($1000.00). 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.

The Board further ORDERS that Respondent shall take and pass the Texas 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, 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 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. 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 effective date of this Agreed Order shall be the date it is adopted by the Board.

I, DAVID R. HELCEL, 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.

[Signature]
DAVID R. HELCEL, D.V.M.

Date: 3/25/2014

Agreed Order 2014-123
DAVID R. HELCEL, D.V.M.
STATE OF TEXAS
COUNTY OF Harris
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BEFORE ME, on this day, personally appeared DAVID R. HELCEL, 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 my hand and by virtue of office this 25th day of March, 2014.

Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL
EXAMINERS on this the ___ day of __________, 2014.

Bud E. Alldredge, Jr., D.V.M.
President of the Board