

DOCKET NO. 2016-178

IN THE MATTER OF	§	TEXAS BOARD OF
THE LICENSE OF	§	VETERINARY
ANNE KULP, D.V.M.	§	MEDICAL EXAMINERS

**AGREED ORDER**

On this the 18 day of Oct, 2016, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Anne Kulp, D.V.M. ("Respondent"). Pursuant to Section 801.408 of the Texas Occupations Code, and Board Rule 575.29, an informal conference was held on July 18, 2016, Respondent attended the informal conference and was 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 understanding the alleged violations and the adequacy and sufficiency of the notice provided.

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, Anne Kulp, D.V.M. of Lebanon, Pennsylvania, holds Texas veterinary license 4983.
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. OvaGenix is a biotechnical company specializing in cattle breeding. OvaGenix uses embryo transfer, estrus synchronization, artificial insemination, and in vitro fertilization. Dr. Kulp is responsible for ensuring the health of the animals treated by OvaGenix.

4. Dr. Kulp prescribes all of the reproductive drugs used in the superovulation and estrus synchronization portions of OvaGenix's program. The prescription of a drug constitutes the practice of veterinary medicine under Texas Occupations Code 801.002(5). Dr. Kulp does not establish a veterinary-client-patient relationship with each herd before prescribing drugs for an animal within the herd.

5. During the embryo transfer procedure, an embryo is flushed from a donor female and transferred to the uterus of a recipient female for the duration of the gestation. An ultrasound is used by OvaGenix personnel to determine if the cow is suitable for the embryo transfer. Dr. Kulp does not establish a veterinarian-client-patient relationship prior to the administration of the ultrasound, and the diagnosis of the cow's suitability for embryo transfer is made by a non-veterinarian.

#### 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 the above Findings of Fact, Respondent has violated Rule 573.15, USE OF ULTRASOUND IN DIAGNOSIS OR THERAPY, of the Board's Rules of Professional Conduct which requires:

- a. The use of ultrasound for diagnosis to be performed only by a licensed veterinarian or under the general supervision of a licensed veterinarian;
- b. A veterinarian to establish a veterinarian-client-patient relationship (VCPR) before performing ultrasonography for diagnostic purposes; and
- c. A diagnosis based on the ultrasound images to be made by a licensed veterinarian.

3. Based on the above Findings of Fact and Conclusions of Law, Respondent has violated Texas Occupations Code Section 801.351, EXISTENCE OF VETERINARIAN-CLIENT-PATIENT RELATIONSHIP, which requires a veterinarian to establish a VCPR before practicing veterinary medicine.

4. Based the above Findings of Fact and Conclusions of Law, Respondent has violated Sections 801.402(6) and (13) 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 practice or conduct that violates the board's rules of professional conduct;

(13) orders a prescription drug or controlled substance for the treatment of an animal without first establishing a veterinarian-client-patient relationship.

5. 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: (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.

6. Based on the above Conclusions of Law, 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 the Board approves this Order, an ADMINISTRATIVE PENALTY of ONE THOUSAND DOLLARS (\$1,000.00). If Respondent fails to pay the administrative penalty within 45 days of the date the Board approves this Order, which is the date this Order is signed by the Board, the Board may apply any payment to the Board to renew a license to pay any outstanding administrative fee owed to the Board.

The Board ORDERS that Respondent shall take and pass the Texas veterinary jurisprudence examination within 90 days from the date the Board approves 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 understanding the Agreed Order, the notice, and Findings of Fact and Conclusions of Law set forth herein, and agrees to 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 the right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges having understood 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.

Signature page follows.

I, ANNE KULP, 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.

Anne B. Kulp DVM  
ANNE KULP, D.V.M.

08-23-16  
DATE

STATE OF Pa §  
COUNTY OF Cascades §

BEFORE ME, on this day, personally appeared Anne Kulp, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me executing the same for the purposes stated therein.

Given under the hand and seal of office this 23 day of August, 2016

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
DELENE M. BROWN, Notary Public  
Penn Township, Lancaster County  
My Commission Expires March 3, 2020

Deleene Brown

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 18 Oct, 2016.

R. Lenarduzzi, DVM  
Roland Lenarduzzi, D.V.M., Board President