DOCKET NO. 2004-21

IN THE MATTER
OF THE LICENSE OF
KENNETH ROYSE, D.V.M.  §  TEXAS STATE BOARD OF
§  VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 17th day of June, 2004, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board"), the matter of the license of Kenneth Royse, D.V.M. (Respondent). Pursuant to the Veterinary Licensing Act (Act), §801.408, Texas Occupations Code, and Board Rule 575.27, Respondent was sent a letter of invitation to appear at an Informal Conference that was held on April 28, 2004. Respondent waived his appearance. The Board was represented at the Informal Conference by the 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 Agreed Order. In waiving an adjudicative hearing, Respondent understands the alleged violations and the adequacy and sufficiency of the notice provided to him.

Upon 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. 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 February 25, 2004, the Board received a letter from Kenneth Royse, D.V.M., which

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disclosed that Dr. Royse did not obtain any of the seventeen (17) hours of continuing education (CE) hours in 2003, renewal year 2004, due to continuing poor health.

3. The Respondent did not timely request a hardship extension of the CE requirements for the year 2003.

Conclusions of Law

1. Respondent is required to comply with the provisions of the Act and Board Rules.
2. Board Rule 573.64 of the Rules of Professional Conduct requires each license holder to acquire 17 hours of approved continuing education each year.
3. Based on Findings of Fact 2 and 3, Respondent has engaged in practices which violate the standards of professional conduct set out in Rule 573.64.
4. Based on Findings of Fact 2 and 3 and Conclusions of Law 1 through 3, Respondent is subject to disciplinary action by the Board under Section 801.402 (6) of the Texas Occupations Code for engaging in "practices or conduct that violates the board’s rules of professional conduct . . . ." and is therefore subject to a civil penalty under Sec. 801.401.

NOW THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:
Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Kenneth Royse, D.V.M., be assessed a civil penalty of FIVE HUNDRED dollars ($500.00) under the following terms and conditions:

1. Respondent shall pay the penalty within forty-five (45) days of the Board’s approval of the Agreed Order.
2. 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.
3. Respondent shall cooperate with the Board’s attorneys, investigators, compliance officers and other employees and agents investigating Respondent’s compliance with this order.
4. Failure by Respondent to comply with the terms of this Agreed Order or with any other provisions of the Act or the Board Rules, may result in further disciplinary action.

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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 of 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 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 State Board of Veterinary Medical Examiners.

I, KENNETH ROYSE, 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 THIS ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

[Signature]
Kenneth Royse, D.V.M.
DATE: 6/6/04

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STATE OF TEXAS
COUNTY OF ____________

BEFORE ME, on this day, personally appeared KENNETH ROYSE, 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 __________ day of __________, 2004.

[Signature]
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the __________ day of __________, 2004.

[Signature]
Dee Pederson, D.V.M.
President

In the Matter of the License of Kenneth Royse, D.V.M.
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Lee H. Mathews, General Counsel  
Texas State Board of  
Veterinary Medical Examiners  
333 Guadalupe St., Tower 3, STE 810  
Austin, Texas 78701

I am writing to request the State Veterinary Board to waive the $500.00 penalty for no C.E. requirements met in 2002-2003. For the past 5 years, I have had severe health problems: a bad heart and severe breathing problems.

In March 1997 I went through the Amarillo Diagnostic Clinic and was admitted to Baptist Saint Anthony's Hospital for 10 days for tests and received no diagnosis.

In May 1997 I went to Scott & White for 4 days of tests and still received no answers, but they realized I had bad breathing problems.

In April 1998 I spent 10 days in Oklahoma City Baptist Hospital for additional tests by heart and respiratory specialist. I still received no answers and my breathing continued to be worse. I continued to do small animal practice half-days when I was able.

In September 2000 I went to National Jewish Hospital in Denver Co. for 10 days of testing. The Doctors agreed I had a problem with my breathing, but again I got no answers.

On November 6, 2002, I was admitted to BSA Hospital ICU in Amarillo with a severe infection in my left leg which required surgery and I had to spend a total of 55 days in the hospital and got to go home December 31, 2002. I was home bound until April 2003 and then I returned to practice for half days.

During my time away from the clinic it was kept open for boarding, grooming and sales of pet foods.

We had been using part of our retirement funds in order to keep the clinic open. I was unable to travel to C.E. meetings during this period of time.
On May 28, 2004 I closed my practice after 45 years. I am 78 years old and it is time to retire. Veterinary medicine has been my life all I ever wanted to do. I will miss my practice and hopefully you will waive the $500.00 penalty.

Sincerely,

Kenneth L. Royse, D.V.M.

Enclosures
Reprimand. Upon motion by Dr. Johnsen, second and an affirmative vote, the Board approved the Agreed Order as presented.

4790 Agreed Order. The Board considered an Agreed Order in Docketed Case No. 2004-18, TSBVME v. Deborah L. Slator, D.V.M. Dr. Lastovica, as the Secretary in this case, was recused from voting. Dr. Slator was not present. Dr. Slator allegedly violated Rule 573.64, CONTINUING EDUCATION, by failing to obtain any of the required continuing education for 2002, renewal year 2003. Disciplinary Action: Civil Penalty of Two Hundred and Fifty Dollars ($250) within 45 days of the agreed order. Upon motion by Dr. Johnsen, second and an affirmative vote, the Board approved the Agreed Order as presented.

4791 Agreed Order. The Board considered an Agreed Order in Docketed Case No. 2004-19, TSBVME v. Mark Bierschwale, D.V.M. Dr. Lastovica, as the Secretary in this case, was recused from voting. Dr. Bierschwale was not present. Dr. Bierschwale allegedly violated Rule 573.64, CONTINUING EDUCATION, by failing to obtain any of the required continuing education for 2001, renewal year 2002. Disciplinary Action: Civil Penalty of Two Hundred and Fifty Dollars ($250) within 45 days of the agreed order. Upon motion by Dr. Johnsen, second and an affirmative vote, the Board approved the Agreed Order as presented.

4792 Agreed Order. The Board considered an Agreed Order in Docketed Case No. 2004-20, TSBVME v. Richard Myrick, D.V.M. Dr. Lastovica, as the Secretary in this case, was recused from voting. Dr. Myrick was not present. Dr. Myrick allegedly violated Rule 573.64, CONTINUING EDUCATION, by failing to obtain six of the required continuing education for 2002, renewal year 2003. Disciplinary Action: Civil Penalty of Two Hundred and Fifty Dollars ($250) within 45 days of the agreed order. Upon motion by Dr. Johnsen, second and an affirmative vote, the Board approved the Agreed Order as presented.

4793 Agreed Order. The Board considered an Agreed Order in Docketed Case No. 2004-21, TSBVME v. Kenneth L. Royse, D.V.M. Dr. Lastovica, as the Secretary in this case, was recused from voting. Dr. Royse was not present. Dr. Royse allegedly violated Rule 573.64, CONTINUING EDUCATION, by failing to obtain any of the required continuing education for 2003, renewal year 2004. Disciplinary Action: Civil Penalty of Five Hundred Dollars ($500) within 45 days of the agreed order. Dr. Royse submitted a letter to the Board asking that they waive the $500 penalty. Dr. Royse stated that he has had severe health problems and that he closed his practice on May 28, 2004. He stated that he is 78 years old and that it was time for him to retire. Upon motion by Dr. Johnsen, second and an affirmative vote, the Board voted to waive the penalty with the condition that Dr. Royse surrender his license and stop practicing. The Board directed staff to revise the agreed order to reflect the Board’s decision and resubmit it at the next Board meeting.

4794 Agreed Order. The Board considered an Agreed Order in Docketed Case No. 2004-22, TSBVME v. Lorna Millen, D.V.M. Dr. Lastovica, as the Secretary in this case, was recused from voting. Dr. Millen