

DOCKET NO. 2015-026

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

AGREED ORDER

On this, the 27 day of January, 2015, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of CONSTANCE SACK, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.29, an informal conference was held on October 20, 2014. The Respondent did not attend the informal conference 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 her understanding of the alleged violations and the adequacy and sufficiency of the notice provided to her.

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, Constance Sack, D.V.M. of Dallas, Texas, holds Texas veterinary license 12944.
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 June 3, 2014, the Board approved an Agreed Order (No. 2014-105) signed by Constance M. Sack, D.V.M. ("Respondent") (the "Order"). The Order ordered Respondent to be formally reprimanded and to have her license suspended for one year with the entire period probated. The Order further required Respondent to complete a

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Peer Assistance Contract under the Board's Peer Assistance Program for five (5) years from the date of the Order.

4. On June 30, 2014, Respondent sent the Board a letter which states that Respondent needs "treatment/counseling...to properly adhere to the requirements of the Board, adequately perform the duties of my next job, and hopefully just fulfill life's simple obligations." Respondent further stated that she is not "fit to be practicing veterinary medicine at this time" and that she would like to voluntarily suspend her license.
5. As of October 1, 2014, Respondent has failed to enter into a contract with the Board's Peer Assistance Program. Respondent has further failed to properly return the calls and emails from both the Board and the Board's Peer Assistance Program.
6. On August 20, 2014, a letter was sent from the Board to the Respondent at the address she provided the Board. She has not updated or changed her address with the Board even though it appears she is likely no longer living at the address the Board has on record. The letter requested that respondent respond within 21 days with a written response to the allegations that she has failed to comply with the Order. Respondent failed to respond.

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 573.62 VIOLATION OF BOARD ORDER/NEGOTIATED SETTLEMENTS, which requires a licensee to abide by the terms of Board Orders. Respondent has failed to enter into a contract with the Board's Peer Assistance Program as she was ordered to do and has failed to respond to numerous calls made by the Board's Peer Assistance Program to Respondent as she is required to do by her Board Order.
3. Based on the above Findings of Fact, Respondent has violated Rule 573.75, DUTY TO COOPERATE WITH THE BOARD, which states that a licensee must respond within 21 days of receipt of requests for information regarding complaints. Respondent never responded to the Board's opening letter of August 20, 2014, requesting a narrative response regarding the alleged facts of the case.
4. Based on the above Findings of Fact, Respondent has violated Rule 573.76, NOTIFICATION OF LICENSEE ADDRESSES, which states that a licensee must inform the Board of a licensee's mailing address.
5. Based on Conclusions of Law 1 through 4, Respondent has violated Section 801.402 (6) of the Veterinary Licensing Act, Texas Occupations Code, and is subject to disciplinary

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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.

6. Based on Conclusions of Law 1 through 5, 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.

NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that CONSTANCE SACK, D.V.M., be FORMALLY REPRIMANDED.

The Board further ORDERS that Respondent's license be SUSPENDED for FIVE YEARS and the ability for the Board to modify that suspension under Board Rule 575.38 is contingent on two factors. Respondent has to be in compliance with the Board's Peer Assistance Program for **one year** before the date of the request for the modification and the Board's Peer Assistance Program must determine that, in their opinion, Respondent is safe to practice veterinary medicine before Respondent's suspension may be modified.

In addition, the Board ORDERS Respondent to complete a Peer Assistance Contract under the Board's Peer Assistance Program for five years (5) from the date the Board signs this Order. Respondent shall follow all recommendations of the Peer Assistance Program Coordinator. If Respondent has more than one missed call in a six month period, one missed drug screening in a

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six month period, or tests positive without a legitimate prescription for any drug Respondent tests positive for, under the Respondent's Peer Assistance Contract, further and immediate disciplinary action may be taken by the Board and is considered a violation of this Board 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 provision of the Act or the Board Rules, may result in further disciplinary action.

Respondent, by signing this Agreed Order, acknowledges her understanding of the Agreed Order, the notice, Findings of Fact and Conclusions of Law herein set forth, and agrees that she 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 her right to a hearing and any right to seek judicial review of this Order. Respondent acknowledges that she is entitled to be represented by an attorney of Respondent's choice at her 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. 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.

I, CONSTANCE SACK, 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.

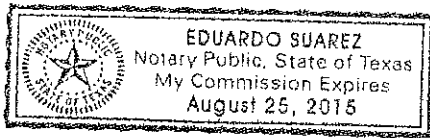
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 CONSTANCE SACK, D.V.M. DATE

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STATE OF TEXAS
COUNTY OF Dallas

BEFORE ME, on this day, personally appeared CONSTANCE SACK, D.V.M., known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me that she executed the same for the purposes stated therein.

Given under the hand and seal of office this 19 day of November 2014



Eduardo Suarez
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 27 day of January, 2015.

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