DOCKET NO. 2016-099

IN THE MATTER OF § TEXAS BOARD OF

THE LICENSE OF § VETERINARY

KIMBERLY SIMPSON, DVM § MEDICAL EXAMINERS

AGREED ORDER

On this the °19° day of °April°, °2016°, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Kimberly Simpson, DVM ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board’s staff met on February 18, 2016, 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 understanding of the alleged violations and the adequacy and sufficiency of notice.

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, Kimberly Simpson, DVM, of Bedford, Texas, holds Texas veterinary license 8674.

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. From 2010 to August 2015, Respondent was engaged by Beyond the Rainbow Pet Hospice as an independent contractor to practice veterinary medicine. Beyond the Rainbow Pet Hospice is not owned by a 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. The practice of veterinary medicine includes the receipt of compensation for the diagnosis, treatment, correction, change, manipulation, relief, or prevention of animal disease, deformity, defect, injury, or other physical condition, including the prescription or administration of a drug, biologic, anesthetic, apparatus, or other therapeutic or diagnostic substance or technique.

3. Based on the above Findings of Fact, Respondent has violated Texas Occupations Code Section 801.352, PROHIBITION AGAINST INTERFERENCE OR INTERVENTION, by entering into an agreement that could have resulted in interference with Respondent's practice of veterinary medicine by a person not licensed to practice veterinary medicine in Texas.

4. Based on the above Findings of Fact, Respondent has violated Texas Occupations Code Section 801.506, PROHIBITED PRACTICES RELATING TO CERTAIN ENTITIES, by entering into an agreement with a legal entity to practice veterinary medicine when the legal entity was not owned exclusively by one or more persons licensed to practice veterinary medicine in Texas.

5. Based on the above Conclusions of Law, Respondent has violated Section 801.402(4) and (20) 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;

... 

(20) practices veterinary medicine or assists in the practice of veterinary medicine without a license issued under this chapter....

6. Based on the above Conclusions of Law, 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.

7. 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.

Mitigating Factor

In determining the appropriate sanctions in this matter, the Board considered the following mitigating factor: Respondent provided information that aided Board staff in its investigation.

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, be FORMALLY REPRIMANDED.

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, 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 understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein 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 that Respondent 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.

Agreed Order 2016-099
Kimberly Simpson, DVM
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.

Mitigating Factor

In determining the appropriate sanctions in this matter, the Board considered the following mitigating factor: Respondent provided information that aided Board staff in its investigation.

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, be FORMALLY REPRIMANDED.

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, 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 understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein 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 that Respondent 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, KIMBERLY SIMPSON, DVM, 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.

Kimberly Simpson, DVM  3-14-2014

STATE OF TEXAS  §
COUNTY OF TARRANT §

BEFORE ME, on this day, personally appeared Kimberly Simpson, DVM, known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that it was executed the same for the purposes stated therein.

Given under the hand and seal of office this 14 day of March, 2016

R. Wood
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 19 day of April, 2016.

Roland Lenarduzzi, DVM  Board President