DOCKET NO. 2007-16

IN THE MATTER § TEXAS STATE BOARD OF

OF THE LICENSE OF §

KIMBERLY HAVELKA D.V.M. § VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this, the 8th day of February, 2007 came on to be considered by the Texas State Board of Veterinary Medical Examiners (“Board”) the matter of the license of KIMBERLY HAVELKA, D.V.M. (“Respondent”). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board’s staff met on December 13, 2006 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 her understanding of the alleged violations and the adequacy and sufficiency of the notice mailed to her.

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. 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 July 6, 2006, the Board received a complaint from Kenneth Kinkade, Austin, Texas on behalf of his in-laws, Mr. and Mrs. Paul Sun, regarding the Alief Animal Hospital, Alief, Texas. On June 27, 2006, the Suns presented their cat “Chubbs” to the hospital for grooming. A price of $40 had been determined beforehand, but upon arrival at the hospital the price was quoted at $50. The Suns were also told by staff that new vaccinations were needed. Because of the Suns’ limited English skills, there was a long discussion between the Suns and the hospital staff concerning the grooming fee and vaccination fees. Vaccinations were given, although the Suns did not request or authorize them.

3. Neither Robert Frederick, D.V.M., nor Kimberly Havelka, D.V.M., veterinarians at the hospital, examined the cat or were involved in administering the vaccines. The vaccines included the FVRCCP, feline leukemia, Bordetella, FIP, and one-year rabies. Dr. Havelka’s
name was stamped on the rabies vaccination certificate.

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. By allowing her signature stamp to be used on a vaccination certificate, Respondent violated Board Rule 573.51, RABIES CONTROL, of the Board’s Rules of Professional Conduct, which prohibits the use of a signature stamp by a non-licensed person who is not acting under direct supervision of the veterinarian.

4. Based on Conclusion of Law 2, Respondent has violated Section 801.402 (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:

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

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

The Board ORDERS that Respondent be informally REPRIMANDED.

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.
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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 his 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. 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 Board of Veterinary Medical Examiners.

I, KIMBERLY HAVELKA, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARIALLY. I UNDERSTAND THAT THIS ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

_________________________    __________________________
Kimberly Havelka, D.V.M.          Jan 1, 2007

STATE OF TEXAS
COUNTY OF ____________

BEFORE ME, on this day, personally appeared Kimberly Havelka, 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 ______ day of __________ , 2007.

[Stamp and Signature]
Notary Public
SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 8th day of February, 2007.

[Signature]

Robert L. Lastovica, D.V.M.
President of the Board