

DOCKET NO. 2008-90

IN THE MATTER	§	TEXAS STATE BOARD OF
	§	
OF THE LICENSE OF	§	VETERINARY
	§	
DAVID E. WAINWRIGHT, D.V.M.	§	MEDICAL EXAMINERS

AGREED ORDER

On this, the 16th day of October 2008, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of DAVID E. WAINWRIGHT, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on August 20, 2008 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 their understanding of the alleged violations and the adequacy and sufficiency of the notice mailed to them.

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 that may be required by law and by the Board's rules. All jurisdictional requirements have been satisfied.
2. As the result of a compliance inspection by mail, the Board determined that David E. Wainwright, D.V.M., Dallas, Texas, could not show proof of continuing education (CE) obtained for seventeen (17) hours during calendar year 2007. On April 22, 2008, written notification was sent to Dr. Wainwright requesting any additional documentation regarding continuing education for that time period. Dr. Wainwright admitted to failure to obtain the continuing education requirements for that period.
3. Dr. Wainwright did not request a hardship extension for the hours missed in 2007.

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.

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TEXAS STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

2. Based on Findings of Facts 1 through 3, Respondent has violated Rule 573.64, CONTINUING EDUCATION REQUIREMENTS, of the Board's Rules of Professional Conduct, which requires a veterinarian to annually acquire seventeen hours of acceptable CE.

3. Based on Conclusions of Law 1 and 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.

4. Based on Conclusions of Law 2 and 3, 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.

5. Based on Conclusions of Law 2 and 3, Respondent may be disciplined in the manner set out in Section 801.307, CONTINUING EDUCATION, of the Veterinary Licensing Act, which authorizes the make up of missed continuing education hours in addition to the hours normally required to be completed in that calendar year.

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

The Board ORDERS that Respondent pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of FIVE HUNDRED DOLLARS (\$500.00). If Respondent fails to pay the administrative penalty within 45 days of the date of this Order, Respondent's license shall be suspended until the penalty is paid.

In addition, the Board ORDERS that Respondent complete an additional SEVENTEEN (17) hours of continuing education within one year of the date of this Order. Documentation of the completion of the continuing education penalty shall be received within 45 days of the end of the period allowed for the completion of the continuing education requirement. If Respondent fails to provide documentation of completion within the above-described time period, Respondent's license shall be suspended until the continuing education penalty is completed and documentation is received by the Board.

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.

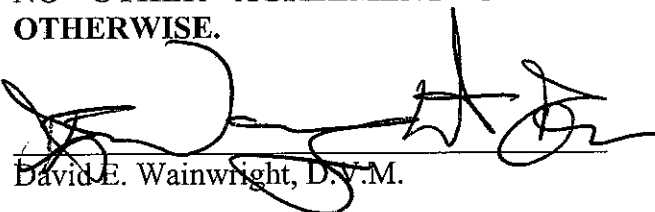
Respondent, by signing this Agreed Order, acknowledges their understanding of the Agreed Order, the notice, Findings of Fact and Conclusions of Law herein set forth, and agrees that they will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary action by the Board.

Respondent, by signing this Agreed Order, waives their right to a hearing and any right to seek judicial review of this Order. Respondent acknowledges that they are entitled to be represented by an attorney of Respondent's choice at their 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, DAVID E. WAINWRIGHT, 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.



David E. Wainwright, D.V.M.

Date

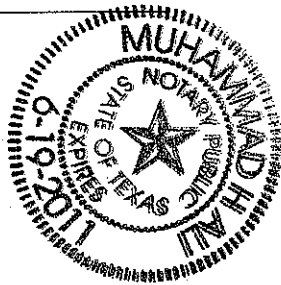
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STATE OF TEXAS
COUNTY OF HARRIS

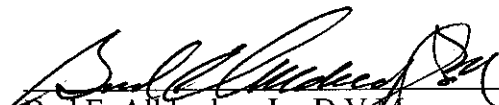
BEFORE ME, on this day, personally appeared David E. Wainwright, D.V.M., known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me that they executed the same for the purposes stated therein.

Given under the hand and seal of office this 18th day of SEPT, 2008


Notary Public



SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY
MEDICAL EXAMINERS on this the 16 day of OCT, 2008.


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