

DOCKET NO. 2012-93

IN THE MATTER OF	§	TEXAS BOARD OF
THE LICENSE OF	§	VETERINARY
JESS O. ADKINS, D.V.M.	§	MEDICAL EXAMINERS

AGREED ORDER

On this the 24th day of July, 2012, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Jess O. Adkins, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on April 25, 2012 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 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 his understanding of the alleged violations and the adequacy and sufficiency of the notice provided to him.

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, Jess O. Adkins, D.V.M. of Fairfield, Texas, holds Texas veterinary License 3046.
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 December 17, 2009, the Board received a complaint from Tom Erwin. Mr. Erwin alleged that Brigitte Erwin, his estranged wife with whom he was involved in a bitter divorce, had obtained controlled substances and prescription drugs while working for Respondent,

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Jess O. Adkins, D.V.M.

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without Respondent creating a veterinarian-client-patient relationship or determining that the drugs were therapeutically indicated. Mr. Erwin sent the drugs in question to the Board. Most of the drug containers that the Board received from Mr. Erwin did not have any labeling information from Respondent necessary for dispensed drugs.

4. On May 25, 2010, Board Investigator Michael Miller conducted a compliance inspection on Respondent's clinic, Adkins Veterinary Service at 337 W. Commerce in Fairfield, Texas ("Clinic"). During the inspection, Investigator Miller noted that Respondent's controlled substance records lacked a column to indicate the current balances on hand.

5. While at Respondent's Clinic, Investigator Miller received a sworn statement from Ms. Erwin, stating that she had taken medications home from the Clinic to treat her dogs and that she had taken 1 cc of Sleepaway, a controlled substance, to euthanize a chicken she owned. Ms. Erwin stated that Respondent was aware she had taken the medications home.

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 Findings of Fact 1 through 5, Respondent has violated Rule 573.40, LABELING OF MEDICATIONS DISPENSED, of the Board's Rules of Professional Conduct, which states that a veterinarian shall affix labels to all unlabeled containers containing any medication dispensed and to all factory labeled containers that contain prescription drugs and/or controlled substances dispensed, and the labels must include the veterinarian's name, address and telephone number, the date of dispensing, the patient and client names, the species of animal, the name, strength and quantity of the drug dispensed, the directions for use, and cautionary statements as required by law..

3. Based on Findings of Fact 1 through 5, Respondent has violated Rule 573.41, USE OF PRESCRIPTION DRUGS, of the Board's Rules of Professional Conduct, which states that a veterinarian may not prescribe, dispense, deliver, or order delivered any prescription drug without first having established a veterinarian/client/patient relationship and determined that such prescription drug is therapeutically indicated for the health and/or well-being of the animal; and that a veterinarian may not prescribe, provide, obtain, order, administer, possess, dispense, give or deliver to or for any person prescription drugs that are not necessary or required for the medical care of animals.

4. Based on the Finding of Fact 4, Respondent has violated Rule 573.50, CONTROLLED SUBSTANCES RECORDS KEEPING FOR DRUGS ON HAND, of the Board's Rules of Professional Conduct, which requires veterinarians to maintain at their place of business records of all scheduled drugs listed in the Texas Controlled Substances Act in their possession, including the name of the drug, the date of acquisition, the quantity purchased, the date

administered or dispensed, the quantity administered or dispensed, the name of the client and patient receiving the drugs, and the balance on hand.

5. Based on Findings of Fact 1 through 5 and 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 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.

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

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 receive a FORMAL REPRIMAND.

The Board further ORDERS that Respondent's license be SUSPENDED for two years, with said SUSPENSION STAYED and Respondent placed on PROBATION for the entire period of SUSPENSION.

The Board ORDERS that Respondent pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of ONE THOUSAND DOLLARS (\$1000.00). If Respondent fails to pay the administrative penalty within 45 days of the date of this Order, Respondent's license may be suspended until the penalty is paid.

The Board further ORDERS that Respondent shall take and pass the Texas veterinary jurisprudence examination within 90 days from the date of 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 Agreed 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 his understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law set forth herein, 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 by 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 acknowledges that he 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. 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, JESS O. ADKINS, D.V.M., 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.



JESS O. ADKINS, D.V.M.

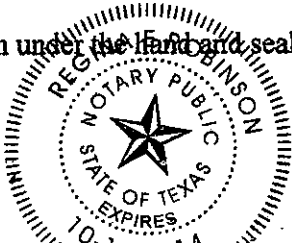
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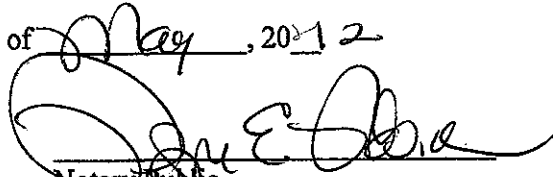
DATE

STATE OF TEXAS §
COUNTY OF Freestone §

BEFORE ME, on this day, personally appeared Jess O. Adkins, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that he executed the same for the purposes stated therein.

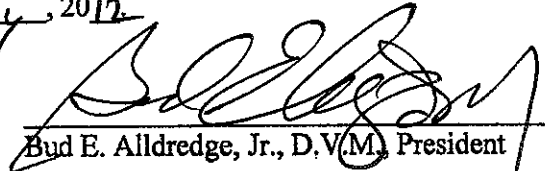
Given under the hand and seal of office this 11th day of May, 2012





Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 24th day of July, 2012



Bud E. Alldredge, Jr., D.V.M., President