

Received

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DOCKET NO. 2015-186

IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
ALLEN CLOUTIER, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 13th day of October, 2015, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of ALLEN CLOUTIER, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on June 30, 2015, 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 his understanding of the alleged violations and the adequacy and sufficiency of the notice mailed 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, ALLEN CLOUTIER, D.V.M. of Sherman, Texas, holds Texas veterinary license 7157.
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 February 13, 2015, Brian Lloyd presented his nine month old male domestic longhair feline, named "Yodi," to Respondent at the Texas Coalition for Animal Protection (the "Clinic") for a rabies vaccination and neuter. Mr. Lloyd returned later that day to pick up Yodi. The Clinic

staff informed him that the staff had "misprocessed" his cat as feral and performed an "ear tip." Yodi was not feral but rather an indoor cat. After the procedure, Yodi will no longer allow people to touch him on the head.

4. Mr. Lloyd did not authorize the "ear tip" procedure.
5. Respondent has instituted measures within the Clinic's processes to prevent this type of error from occurring again.

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 573.10, SUPERVISION OF NON-LICENSED PERSONS, of the Board's Rules of Professional Conduct, which states that a veterinarian is subject to discipline when he improperly delegates care and/or treatment duties to a non-veterinarian. Further, Rule 573.11, RESPONSIBILITY FOR UNLICENSED EMPLOYEES, provides that a veterinarian is responsible for any acts a non-veterinarian employee commits within the scope of the employee's employment.
3. Based on the above Finding of Facts and Conclusion of Law, Respondent has violated Section 801.402 (12) of the Veterinary Licensing Act, Texas Occupations Code, by performing unauthorized treatment when Respondent allowed his staff to perform an ear tipping procedure without authorization from the owner, 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:

(12) performs or prescribes unnecessary or unauthorized treatment.

4. Based on Conclusions of Law 1 through 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.

5. Based on Conclusions of Law 1 through 4, 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 Respondent receive an INFORMAL REPRIMAND.

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.

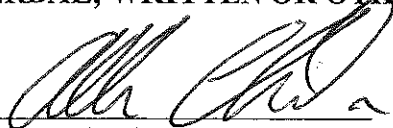
Respondent, by signing this Agreed Order, waives his right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that he had the right to be

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, ALLEN CLOUTIER, 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.

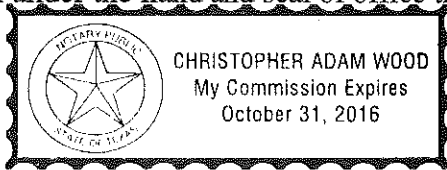

ALLEN CLOUTIER, D.V.M.

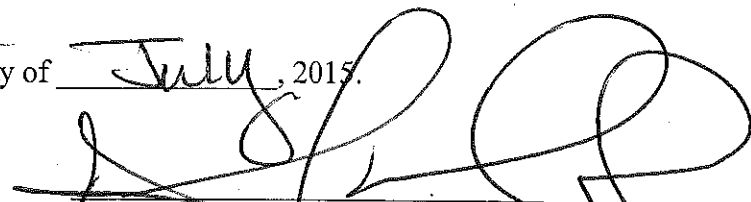
July 27 2015
DATE

STATE OF TEXAS §
COUNTY OF Tarrant §

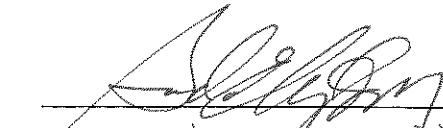
BEFORE ME, on this day, personally appeared ALLEN CLOUTIER, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 27th day of July, 2015.




Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 13 October, 2015.


Bud Allredge Jr., DVM, President