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Texas State Board of
Veterinary Medical Examiners

DOCKET NO. 2015-132

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

AGREED ORDER

On this, the 21 day of July, 2015, came on to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of DAVID CURBO, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on March 10, 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 an informal proceeding under Section 801.408 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 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, David Curbo, D.V.M. of Livingston, Texas, holds Texas veterinary license 7692. Respondent owns and operated the Area Wide Veterinary Clinic (the "AWVC") in Livingston, Texas.
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. Andreanna Price ("Ms. Price") was employed at the AWVC. Ms. Price is not a licensed veterinarian in the State of Texas.

4. On August 29, 2014, the Board received a complaint from a former employee at the AWVC named April Gerhardt ("Ms. Gerhardt"). Ms. Gerhardt alleged that Respondent was allowing his non-veterinarian unlicensed employees to practice veterinary medicine on animals at the AWVC.

5. In response to Ms. Gerhardt's allegations, Ms. Price admitted that she had performed neuter procedures on felines in the past. Respondent confirmed that he had allowed Ms. Price to perform neuter procedures on felines in the past. Both Respondent and Ms. Price allege that the neuter procedures were solely performed on stray felines and it was between three and six years ago.

6. Respondent explained to a Board Investigator that he taught Ms. Price how to perform the neuter procedure that she had performed on the stray felines in the past.

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 Finding of Facts, Respondent has violated Rule 573.10, SUPERVISION OF NON-LICENSED EMPLOYEES, of the Board's Rules of Professional Conduct, which requires veterinarians to be directly responsible for all actions of non-licensed employees acting under the licensee's directions or authorization. Respondent failed to properly supervise his non-licensed veterinary technicians.

3. Based on Finding of Facts 1 through 8 and 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 1 through 3, 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.

5. 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.

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 pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of TWO THOUSAND DOLLARS (\$2000.00). If Respondent fails to pay the administrative penalty within 45 days of the date of this Order, the Board may apply any payment to the Board to renew a license to pay any outstanding administrative fee owed to the Board.

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 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 herein 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, DAVID CURBO, 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.

David Curbo
DAVID CURBO, D.V.M.

3/31/15
DATE

STATE OF TEXAS §
COUNTY OF Polk §

BEFORE ME, on this day, personally appeared DAVID CURBO, 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 31st day of March, 2015.



Geoff Goertz
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 21 July, 2015.

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