

COMPLAINT NO. 22-047

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

AGREED ORDER

On this day the Texas Board of Veterinary Medical Examiners ("Board") considered the matter of the license of Kerry Fitzpatrick, D.V.M. ("Respondent").

Respondent, without admitting the truth of the Findings of Fact and Conclusions of Law set out in this Order, waived notice and hearing and agreed to the entry of this Order. Accordingly, the Board makes the following Findings of Fact and Conclusions of Law and enters this Order as set forth below.

FINDINGS OF FACT

1. Respondent, Kerry Fitzpatrick, D.V.M., holds Texas veterinary license #12410.
2. Respondent was arrested for driving while intoxicated by the Montgomery County Sherriff's Office on October 1st, 2021.
3. Respondent's license is currently on a probated suspension in Case DK2018-061.
4. Respondent was convicted of driving while intoxicated in April 2018.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Chapter 801, the Board has jurisdiction over this matter. Respondent is required to comply with the provisions of the Veterinary Licensing Act, Chapter 801, Texas Occupations Code, and with the Board's Rules. Respondent received notice as required by law.
2. Respondent has violated Board Rule 573.62, Violation of a Board Order, of the Board's Rules of Professional Conduct.
3. Respondent is subject to disciplinary action under Texas Occupations Code, Sections 801.401(a), and 801.451.
4. Pursuant to Board Rule 575.25, Respondent's violations are Class A violations, and Respondent is subject to disciplinary action under that Rule.

TERMS OF ORDER

Now, therefore, the Board and Respondent agree to the following terms:

1. SUSPENSION AND PROBATION

a. Respondent's license shall be suspended until April 9th, 2024, with said suspension stayed after Respondent is cleared to practice by the Peer Assistance Program and Respondent placed on probation for the remaining period of the suspension.

i. During the period of the enforced suspension, the following terms shall apply:

1. Respondent shall not practice nor give the appearance of practicing veterinary medicine.
2. Respondent shall not supervise nor give the appearance of supervising other licensees or unlicensed employees in the practice of veterinary medicine.
3. Respondent shall notify all present and prospective employers of this Order. Respondent shall cause employers to provide written acknowledgement to the Board that they have read and understood the Order, including the provision that Respondent shall not practice nor give the appearance of practicing veterinary medicine. This acknowledgement must be provided within 30 days of the effective date of the Order for present employers, or within 15 days of undertaking new employment. This acknowledgment shall be submitted to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701.
4. Respondent shall notify all Board licensees with whom Respondent practices of the Order. Respondent shall provide written acknowledgement to the Board that Respondent provided this notice. This acknowledgment must be provided within 30 days of the effective date of the Order, or within 15 days of undertaking new employment. This acknowledgment shall be submitted to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701.
5. Respondent's clinic and facilities may be used by Respondent for administrative purposes only.

ii. During the period of probation, the following terms shall apply:

Respondent shall notify all present and prospective employers of this Order. Respondent shall cause employers to provide written acknowledgement to the Board that they have read and understood the Order. This acknowledgement must be provided within 30 days of the effective date of the Order for present

employers, or within 15 days of undertaking new employment. This acknowledgment shall be submitted to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701.

- b. If Respondent does not timely and satisfactorily comply with any of the terms of this Order, the Board may rescind Respondent's probation pursuant to Board Rule 575.36.

2. TESTING

- a. Respondent shall abstain from the consumption of or intentional exposure to prohibited substances, except as prescribed by a physician to Respondent for legitimate and documented therapeutic purposes. Any such prescribed substances must be reported to the Board staff as soon as possible. Prohibited substances include dangerous drugs, as defined by Health and Safety Code, Chapter 483, Controlled substances, as defined by Health and Safety Code, Chapter 481, and any substance, including over-the-counter agents and food products, which may cause a positive result in a drug screening.
- b. For the duration of the probation period, Respondent shall timely and satisfactorily submit to periodic screenings for prohibited substances as directed by the Board Staff. The testing shall be at Averhealth testing 1104 Wilson Rd, Suite B, Conroe, Texas 77301. Testing shall be through urine and hair testing. Hair testing shall be ordered no more than once every 75 days. Urine testing shall be no more than every 30 days. Respondent shall obtain testing within two business days of notice by Board staff. Respondent shall constitute a violation of this Order:
 - i. Submitting a positive-dilute specimen;
 - ii. Submitting an adulterated specimen;
 - iii. Submitting a substituted specimen; or
 - iv. Refusing or failing to submit to a screening as directed by Board Staff.

3. ADHERENCE TO THE LAW AND BOARD RULES

- a. Respondent shall abide by the Board's Rules of Professional Conduct, the Texas Veterinary Licensing Act, and the laws of the State of Texas and the United States.
- b. Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this Order.
- c. Failure by Respondent to comply with the terms of this Order, or with any other provisions of the Veterinary Licensing Act or the Board Rules, may result in further disciplinary

The effective date of the terms of this Order shall be the date it is adopted by the Board, unless stated otherwise.

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Order. I have reviewed this Order and understand the Findings of Fact and Conclusions of law set forth herein. I neither admit nor deny the violation(s) herein. I understand that this Order contains the entire agreement, and there is no other agreement of any kind. I waive the right to any further proceedings, including a formal hearing, and the right to seek judicial review of this Order.

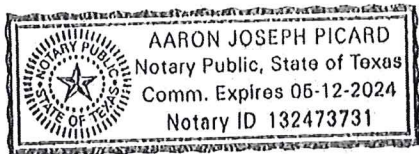
I understand that this Order is subject to approval by the Board. I understand that the terms and conditions of this Order become effective upon approval by the Board. A copy of the approved Order will be mailed to me. By signing this Order, I agree to satisfactorily comply with the terms and conditions of the Order in a timely manner. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and appropriate disciplinary action as a result of my noncompliance.

Signed this 3 day of December, 2021.

Kerry FitzPatrick, D.V.M.
Kerry FitzPatrick, D. V. M.

Sworn and subscribed before me this 3rd day of Dec., 2021.

SEAL:



Aaron Joseph Picard
Notary Public

THEREFORE, the Texas Board of Veterinary Medical Examiners does hereby adopt this Order. This Order is effective and final on this 25th day of January, 2022.

Jessica Quillivan, DVM
Jessica Quillivan, D.V.M., Presiding Board Member