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MAY 20 2002

State Board of Veterinary
Medical Examiners

DOCKET NO. 2002-33

IN THE MATTER
OF THE LICENSE OF
FRANK FLUITT, D.V.M.

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§

TEXAS STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 13th day of June, 2002 came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board"), the matter of the license of Frank Fluitt, D.V.M. (Respondent). Pursuant to the Veterinary Licensing Act (Act), §801.408, Texas Occupations Code, and Board Rule 575.27, Respondent was sent a letter of invitation to appear at an Informal Conference that was held on April 18, 2002. Respondent waived his appearance. The Board was represented at the Informal Conference by the Enforcement Committee.

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 Agreed Order. In waiving an adjudicative hearing, Respondent understands the alleged violations and the adequacy and sufficiency of the notice provided to him.

Upon recommendation of the Enforcement 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. Frank Fluitt, D.V.M., is a veterinarian licensed by the Board to practice veterinary medicine in the state of Texas. Respondent is not subject to prior disciplinary action by the Board.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent has received all notice which may be required by law and by the Board Rules. All jurisdictional

requirements have been satisfied.

3. On January 18, 2002, in response to a compliance inspection request, Respondent sent the Board a statement that he had failed to obtain all of the required continuing education (CE) for calendar year 1998, renewal year 1999.

4. The Respondent did not request a hardship extension of the CE requirements for 1998.

Conclusions of Law

1. Respondent is required to comply with the provisions of the Act and Board Rules.

2. Board Rule 573.64 of the Rules of Professional Conduct requires each license holder to acquire 15 hours of approved continuing education each year.

3. Based on Findings of Fact 3 and 4, Respondent has engaged in practices which violate the standards of professional conduct set out in Rule 573.64.

4. Based on Findings of Fact 3 and 4 and Conclusions of Law 1 through 3, Respondent is subject to disciplinary action by the Board under Section 801.402 (6) of the Texas Occupations Code for engaging in "practices or conduct that violates the board's rules of professional conduct" and is therefore subject to a civil penalty under Sec. 801.401.

NOW THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Frank Fluitt, D.V.M., be assessed a civil penalty of two hundred and fifty dollars (\$250.00) under the following terms and conditions:

1. Respondent shall pay the penalty within forty-five (45) days of the Board's approval of the Agreed Order.
2. 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.
3. Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this order.

4. Failure by Respondent to comply with the terms of this Agreed Order or with any other provisions of the 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, Findings of Fact and Conclusions of Law herein set forth, 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 of 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 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 State Board of Veterinary Medical Examiners.

I, FRANK FLUITT, 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 THIS ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.


Frank Fluitt, D.V.M.
Respondent

DATE 5-16-02

STATE OF TEXAS §
COUNTY OF Parker §

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

Given under the hand and seal of office this 16th day of May, 2002.



Notary Seal

Leslie D. Palmer
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 13 day of June, 2002.

Martin E. Garcia, D.V.M.
MARTIN E. GARCIA, D.V.M.
President