

DOCKET NO. 1999-16

IN THE MATTER  
OF THE LICENSE OF  
RICHARD FUSSELL, D.V.M.

§ TEXAS STATE BOARD OF  
§  
§ VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 10 day of June, 1999, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board"), the matter of the license of Richard Fussell, D.V.M., (Respondent). Pursuant to the Veterinary Licensing Act (Act) § 18F and Board Rule 575.27, Respondent was sent a letter of invitation to appear at an Informal Conference that was held on May 6, 1999. Respondent chose not to appear at the Conference. 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 acknowledges understanding of 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. Richard Fussell, D.V.M., is a veterinarian licensed by the Board to practice veterinary medicine in the state of Texas under license number 2506, 1999 renewal certificate number 5047+P. 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

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In the Matter of the License of Richard Fussell, D.V.M.  
Docket No. 1999-16

requirements have been satisfied.

3. On or before March 1, 1999, Richard Fussell, D.V.M., submitted an application to renew his license to practice veterinary medicine for the 1999 calendar year.
4. On or about March 1, 1999, the Board received a letter from Respondent that his continuing education requirements for practice year 1999 had not been met.
5. Respondent has not produced records to substantiate the satisfaction of the continuing education requirements in 1998.

#### Conclusions of Law

1. Respondent is required to comply with the provision of the Act and Board Rules.
2. Section 14 (a)(5) of the Act authorizes the Board to revoke or suspend a license, impose a civil penalty, place a licensee on probation, or reprimand a licensee based upon findings that a licensee:

.....  
(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law;

3. Board Rule 573.64 of the Rules of Professional Conduct requires each license holder to attend 15 hours of approved continuing education each year.
4. Based on Finding of Fact 5, respondent has engaged in practices which violate the standards of professional conduct set out in Rule 573.64.
5. Based on Conclusions of Law 1 through 4, Respondent is subject to disciplinary action by the Board under the Act §14(a)(5).

NOW THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Richard Fussell, D.V.M., ~~receive an OFFICIAL REPRIMAND~~ and be assessed an administrative penalty in the amount of \$250.00, under the following terms and conditions:

1. Respondent shall pay the administrative penalty within forty-five (45) days of the

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In the Matter of the License of Richard Fussell, D.V.M.  
Docket No. 1999-16

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.

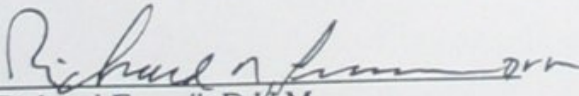
Respondent, by signing this Agreed Order, acknowledges his understanding of the Agreed Order, the notice, Findings of Fact and Conclusions of Law herein set forth, and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary 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, RICHARD FUSSELL, 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.

  
Richard Fussell, D.V.M.  
Respondent

May 29, 1999  
DATE

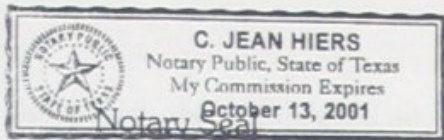
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In the Matter of the License of Richard Fussell, D.V.M.  
Docket No. 1999-16

STATE OF TEXAS §  
COUNTY OF Harris §

BEFORE ME, on this day, personally appeared Richard Fussell, 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 29th day of May, 1999.



C. Jean Hiers  
Notary Public

This agreed order has been entered between Richard Fussell, D.V.M. and Ron Allen, the Executive Director of the Texas State Board of Veterinary Medical Examiners, in concurrence with the Board Secretary. It is presented to the Board as a recommendation only.

[Signature]  
RON ALLEN  
Executive Director, TSBVME

June 1, 1999  
DATE

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 11 day of June, 1999.

Robert I. Hughes, Jr., D.V.M.  
ROBERT I. HUGHES, JR., D.V.M.  
President

TEXAS STATE BOARD OF VETERINARY	§	TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS	§	LICENSE NO. 2506
vs.	§	1999 RENEWAL CERTIFICATE
RICHARD FUSSELL, DVM	§	NUMBER 5047+P

COMPLAINT AFFIDAVIT

Before me, the undersigned authority, a Notary Public in and for Texas, on this day personally appeared Mike Carroll, who after being duly sworn, did depose and say:

On or about March 9, 1999, Mike Carroll, being an employee of the Texas State Board of Veterinary Medical Examiners, did in the course of such employment, make certain investigations into the professional conduct of one Richard Fussell, D.V.M., Animal Hospital of Westheimer Village, 11326-C Westheimer Road, Houston, Texas, 77077, Veterinary License Number 2506, 1999 Renewal Certificate Number 5047+P, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas Board of Veterinary Medical Examiners, I, Mike Carroll, do hereby present the following complaint against Richard Fussell, D.V.M.

I.

Richard Fussell, D.V.M., is a veterinarian licensed by the Board to practice veterinary medicine in the state of Texas under license number 2506, 1999 renewal certificate number 5047+P. Respondent is not subject to prior disciplinary action by the Board.

II.

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.

III.

On or before March 1, 1999, Richard Fussell, D.V.M., submitted an application to renew his license to practice veterinary medicine for the 1999 calendar year.

IV.

On or about March 1, 1999, the Board received a letter from Respondent that his continuing education requirements for practice year 1999 had not been met.

V.

Respondent has not produced records to substantiate the satisfaction of the continuing education requirements in 1998.

VI.

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

VII.

Section 14 (a) of the Act authorizes the Board to revoke or suspend a license, impose a civil penalty, place a licensee on probation, or reprimand a licensee based upon findings of non-compliance with the Act or Board Rules.

VIII.

Section 14 (a) (5) authorizes the Board to take the above stated disciplinary action if the licensee "...has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with the law."

IX.

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

X.

Based on paragraph V, Respondent has engaged in practices which violate the standards of professional conduct set out in Rule 573.64.

XI.

Based on paragraphs VI through X, Respondent is subject to disciplinary action by the Board under Section 14 (a) (5) of the Act.

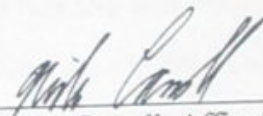
ARTICLE 8890, SECTION 14

(a)...the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a licensee...if he finds that a licensee:

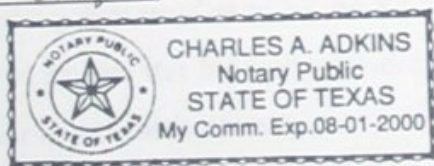
(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with the law;

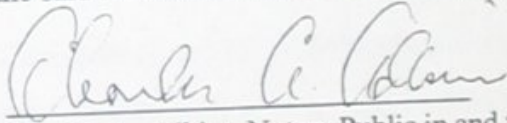
The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 12TH day of MAY 1999.

Further, Affiant sayeth not.

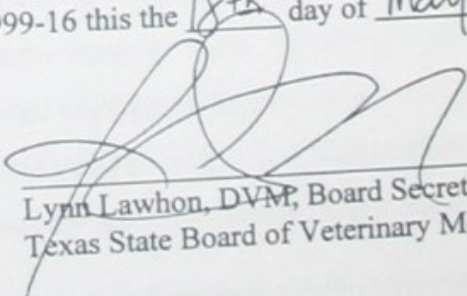
  
Mike Carroll, Affiant

SUBSCRIBED and SWORN TO before me by the said Mike Carroll this the 12th day of MAY, 1999.



  
Charles A. Adkins, Notary Public in and for Texas

The foregoing Complaint is hereby filed and docketed with the Texas State Board of Veterinary Medical Examiners and styled Texas State Board of Veterinary Medical Examiners vs. Richard Fullell, D.V.M. under Docketed Number 1999-16 this the 18th day of May 1999.

  
Lynn Lawhon, DVM, Board Secretary  
Texas State Board of Veterinary Medical Examiners