

4. On May 13, 2003, the Board finally received a response from Dr. Fussell to the original complaint in Case No. 03-023. He apologized for his "obvious, almost pathological reluctance to address problems like this."
5. Dr. Fussell's failure to respond to the Board's requests during a seven and one-half month period resulted in unnecessary delays in the investigation of Case No. 03-023.

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 Findings of Fact 1 through 5, Dr. Fussell has violated RULE 573.74, DUTY TO COOPERATE WITH BOARD, of the Board's Rules of Professional Conduct, which requires a veterinarian to cooperate fully with any Board investigation and to respond within 21 days to requests for information concerning complaints.
3. Based on Conclusions of Law 1 and 2, Dr. Fussell 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 Conclusion of Law 3, Respondent may be disciplined in the manner set out in Section 801.401, DISCIPLINARY POWERS OF BOARD, of the Veterinary Licensing Act, Texas Occupations Code, which may include revocation or suspension of a license, probation of a person whose license has been suspended, a reprimand, or a civil penalty.

NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

The Board ORDERS that Respondent be officially REPRIMANDED.

The Board further ORDERS that Respondent pay within 45 days of the date of this Order, a CIVIL PENALTY of two thousand dollars (\$2000.00).

The Board further ORDERS that Respondent's license to practice veterinary medicine be SUSPENDED for 12 months, and that the 12-month suspension be PROBATED, subject to the further stipulations below.

The Board further ORDERS that Respondent take and pass the Board's JURISPRUDENCE EXAMINATION within 45 days of the date of this Order. If Respondent fails to take and pass the Jurisprudence Examination within 45 days of the date of this Order, THE PROBATION IS LIFTED AND THE RESPONDENT'S LICENSE IS SUSPENDED FOR A MINIMUM OF 30 DAYS. AFTER THE 30-DAY PERIOD OF SUSPENSION, RESPONDENT MAY TAKE THE JURISPRUDENCE EXAMINATION AGAIN. IF RESPONDENT FAILS TO TAKE AND PASS THE JURISPRUDENCE EXAMINATION AGAIN, RESPONDENT'S LICENSE WILL BE SUSPENDED FOR ANOTHER 30-DAY PERIOD. RESPONDENT MAY NOT TAKE THE JURISPRUDENCE EXAMINATION MORE OFTEN THAN ONCE EVERY 30 DAYS. THE SUSPENSION WILL BE IN EFFECT UNTIL RESPONDENT TAKES AND PASSES THE JURISPRUDENCE EXAMINATION.

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 provision 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 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 Order. Respondent acknowledges that he is entitled to be represented by an attorney of Respondent's choice at his expense. Respondent has voluntarily represented himself.

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 Board of Veterinary Medical Examiners.

I, RICHARD FUSSELL, HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT 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.

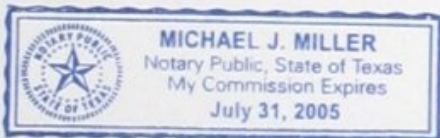
Richard Fussell
Richard Fussell, D.V.M.

10-10-03
DATE

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 10 day of October, 2003



Michael J. Miller
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the _____ day of _____, 2003

J. Lynn Lawhon
J. Lynn Lawhon, D.V.M.
President of the Board