

DOCKET NO. 2008-40

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

AGREED ORDER

On this the 14<sup>th</sup> of February, 2008, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Erik Gallegos, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on January 18, 2008. The Respondent was not represented by counsel. The Board was represented at the conference by the Board's 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 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 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. On July 26, 2007 Herbert C. Munden, M.D. of Austin, Texas informed TBVME (Board) of the continued noncompliance with the drug screening program by Erik Gallegos, D.V.M., San Antonio, Texas.
2. On May 4, 2007, Dr. Erik Gallegos signed an agreed order with TBVME, agreeing to participate in the Board's peer assistance program for the duration of the five-year contract period. Participation in the program included periodic drug testing. The Board signed and entered the Agreed Order on June 14, 2007. The Agreed Order suspended Dr. Gallegos' license for sixty (60) months, and probated the suspension for the entire sixty (60) months. Dr. Munden is the administrator of the Board's peer assistance program.
3. Dr. Munden notified the Board on July 26, 2007 of Dr. Gallegos' continued noncompliance with the drug screening program. In addition, Dr. Munden stated he advised Dr. Gallegos to

enter an Intensive Outpatient Relapse Program and to immediately advise Dr. Munden of his admission. Dr. Gallegos failed to inform Dr. Munden of his entry into such a program. Dr. Munden clarified his letter on December 5, 2007 by stating Dr. Gallegos was in violation of his contract and has been terminated from the Board's Peer Assistance Program.

4. Dr. Gallegos has failed to participate in the Board's peer assistance program.

#### 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 Finding of Facts 1 through 4, Respondent has violated Rule 573.62, VIOLATION OF BOARD ORDER/NEGOTIATED SETTLEMENTS, of the Board's Rules of Professional Conduct, which requires all persons that are the subject of a Board Order shall abide by the terms of the order.

3. Based on Finding of Facts 1 through 4 and Conclusions of Law 1 and 2, Respondent has violated Section 801.402 (3) and (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:

- (3) is chronically or habitually intoxicated, chemically dependent, or addicted to drugs; or
- (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.

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

Based on the above Findings of Fact and Conclusions of Law, the Board **ORDERS** that Erik Gallegos, D.V.M., be **FORMALLY REPRIMANDED**.

In addition, the Board **ORDERS** that Respondent's License to practice veterinary medicine be **SUSPENDED** for a period of sixty (60) months from the date this order becomes final under Section 2001.144, Government Code. Such suspension shall be **STAYED** and the suspension shall be **PROBATED** for the entire sixty (60) months. If, during the period of probation, Respondent fails to comply with this Order, the Texas Licensing Act and/or the Rules of the Board, the Board shall take immediate disciplinary action(s).

The Board further **ORDERS** Respondent to submit to random periodic testing for urine and other possible drug testing methods, as determined by the Board's Executive Director, and with the urine drug screens with the laboratory results provided to the Board not less than once a month, for the period of the suspension.

The Board further **ORDERS** Respondent to enter into an in-house drug treatment program, as approved by the Board's Executive Director, for not less than 16 weeks, by March 30, 2008. The in-house drug treatment program shall send all progress reports directly to the Board.

The Board further **ORDERS** Respondent to appear at the next scheduled informal settlement conference after his discharge from the in-house drug treatment program. Respondent shall bring with him to the conference the discharge report from the in-house drug treatment program.

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. 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 effective date of this Agreed Order shall be the date it is adopted by the Board.

I, ERIK GALLEGOS, 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.

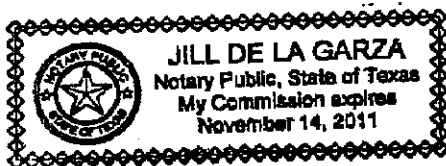
Erik Gallegos DVM  
Erik Gallegos, D.V.M.

2-6-08  
Date

STATE OF TEXAS §  
COUNTY OF Bexar §

BEFORE ME, on this day, personally appeared Erik Gallegos, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that She executed the same for the purposes stated therein.

Given under the hand and seal of office this 6 day of February, 2008.



Jill De La Garza  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 14<sup>th</sup> day of February, 2008.

*Dr Pat M Allen*

~~Robert Lastovica, D.V.M., President~~

*Patrick Allen, DVM  
Vice President*