

DOCKET NO. 2012-38

IN THE MATTER OF	§	TEXAS BOARD OF
THE LICENSE OF	§	VETERINARY
GENE F. GIGGLEMAN, D.V.M.	§	MEDICAL EXAMINERS

AGREED ORDER

On this the 27 day of March, 2012 came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Gene F. Giggleman, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.29, an informal conference was held on November 30, 2011. The Respondent appeared, and was 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. Respondent, Gene F. Giggleman, D.V.M. of Grapevine, Texas, holds Texas veterinary license 4945.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent received notice, which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied under Tex. Occ. Code Ann. Title 4 (Act). By entering into this Agreed Order, Respondent waives any defect in the notice and any further right to notice and hearing under the Act; Tex. Gov't Code Ann. §§ 2001.051-.054; and the Rules of the Texas Board of Veterinary Medical Examiners (Board Rules) (22 Tex. Admin. Code, Chapter 575).
3. In 2009, Respondent was employed as attending veterinarian of U.S. Global Exotics, Inc. (USGE) in Arlington, Texas.

4. In order to clear customs for international shipment to most foreign countries, animals must be shipped with valid health certificates stating that the animals are healthy at the time of shipment.
5. Respondent admitted to the Board that in July or August 2009, Respondent issued three blank health certificates, pre-signed, that USGE used to issue health certificates in Respondent's name on animals that Respondent had never examined.
6. On November 23, 2009, Respondent visited the USGE facility briefly. While at the facility, Respondent signed ten blank acclimation certifications, which require that the signing veterinarian attest that animals described on the form show no external visual evidence of disease. Respondent gave these ten blank certifications to an employee of USGE, saying, "You're going to be shipping a lot. Ten health certificates."
7. On October 31, 2011, Respondent submitted patient records to the Board in response to a Board request for patient records from his work for USGE. The records do not include the necessary information regarding the animals Respondent treated, including but not limited to the species and number of animals examined; weight required for diagnosis and treatment; temperature required for diagnosis or treatment; differential diagnosis and/or treatment; names, dosages, concentration and routes of administration of each drug prescribed, administered, and/or dispensed; and other details necessary to substantiate the examination, diagnosis and treatment provided, and/or surgical procedure performed.
8. On November 30, 2011, Respondent stated to the Board that he had lost his controlled substances log in 2010.

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 6, Respondent has violated Rule of Professional Conduct 573.24, Issuance of Certificates Through Direct Knowledge Only, by issuing certificates attesting to the physical condition and/or soundness of an animal without first having personally examined the animal and without knowing, through actual inspection, that said animals meet the requirements for the issuance of such certificates.
3. Based on Findings of Fact 1 through 5, Respondent has violated Rule of Professional Conduct 573.10, Supervision of Non-Licensed Employees, by issuing pre-signed official health documents.
4. Based on Findings of Fact 1 through 3 and 7, Respondent has violated Rule of Professional Conduct 573.52, Patient Record Keeping, by failing to record required information

regarding the animals Respondent treated, including but not limited to the species and number of animals examined; weight required for diagnosis and treatment; temperature required for diagnosis or treatment; differential diagnosis and/or treatment; names, dosages, concentration and routes of administration of each drug prescribed, administered, and/or dispensed; and other details necessary to substantiate the examination, diagnosis and treatment provided, and/or surgical procedure performed.

5. Based on Findings of Fact 1 through 3 and 8, Respondent has violated Rule of Professional Conduct 573.50, Controlled Substances Record Keeping for Drugs on Hand, by failing to maintain for a minimum of five years all records of all scheduled drugs listed in the Controlled Substances Act in Respondent's possession.

6. Based on Findings of Fact 1 through 8 and Conclusions of Law 1 through 5, Respondent has violated Sections 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.

7. Based on Conclusions of Law 1 through 6, 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: (a)

- (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.

.... (d) In addition to other disciplinary actions authorized by this subchapter, the board may require a license holder who violates this chapter to participate in a continuing education program.

8. Based on Conclusions of Law 1 through 6, Respondent may be disciplined in the manner set out in Section 801.451, Imposition of Administrative Penalty, of the Veterinary Licensing Act, which authorizes an administrative penalty for violations of the Act and Board rules.

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

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent is FORMALLY REPRIMANDED.

The Board further ORDERS that the license of Respondent is SUSPENDED for two years with all STAYED and Respondent placed on PROBATION.

The Board ORDERS that Respondent pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of TWO THOUSAND FIVE HUNDRED (\$2500.00). If Respondent fails to pay the administrative penalty within 45 days of the date of this Agreed Order, Respondent's license may be suspended until the penalty is paid.

In addition, the Board ORDERS that Respondent complete an additional THREE (3) hours of continuing education in recordkeeping within one year of the date of this order. Documentation of the completion of the continuing education penalty shall be received by thirty (30) days following the end of the period to receive the continuing education required for this Order. If Respondent fails to provide documentation of completion within forty-five (45) days from the end of the period to receive the continuing education, Respondent's license shall be suspended until the continuing education penalty is completed and documentation is received by the Board.

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 Agreed 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 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

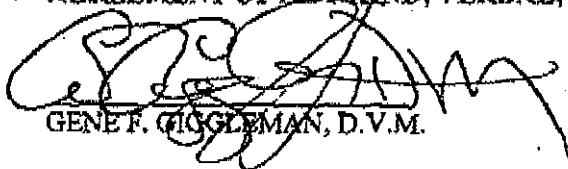
appropriate disciplinary action by the Board.

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. 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, GENE F. GIGGLEMAN, 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.

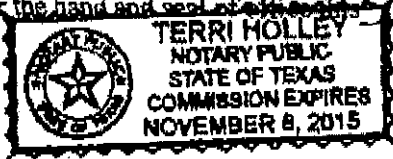

GENE F. GIGGLEMAN, D.V.M.

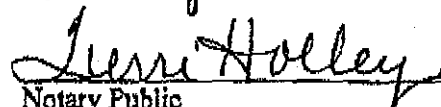
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STATE OF TEXAS §
COUNTY OF Dallas §

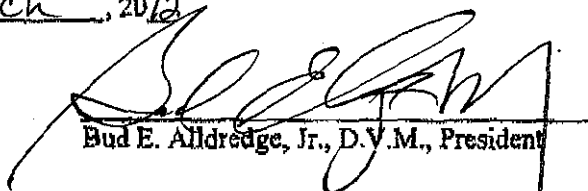
BEFORE ME, on this day, personally appeared Gene F. Giggleman, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 5 day of January, 2012




Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 27th of March, 2012


Bud E. Alldredge, Jr., D.V.M., President