

DOCKET NO. 2009-77

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

AGREED ORDER

On this the <sup>26</sup>8<sup>th</sup> day of October, 2009, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Joshua Harvey, D.V.M. ("Respondent") Pursuant to §801.408 of the Veterinary Licensing Act and Board Rule 575.27, an informal conference was held on July 13, 2009. Respondent declined to appear at the conference and executed a *Waiver of Conference*. The Board was represented at the conference by the Board's Enforcement Committee.

Respondent 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 September 26, 2008, Robert Brojanowski of Rhome, Texas, presented "Gracie", a ten year old female horse to Respondent of Outlaw Equine, Decatur, Texas, for an eye infection. Mr. Brojanowski took "Gracie" to Respondent at the recommendation of his father in law, James Duckworth, a longtime client of Respondent. "Gracie" balked when entering the stocks for examination and Respondent touched the horse with an electric cattle prod. "Gracie's" eye responded well to treatment, and she made a full recovery. Mr. Duckworth paid Respondent for his services.

2. Respondent has violated Rule of Professional Conduct 573.22 PROFESSIONAL STANDARD OF HUMANE TREATMENT, by his use of a cattle prod on a horse in a non-emergency situation.

**Conclusions of Law**

1. Respondent is required to comply with the provisions of the Veterinary Licensing Act,

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VETERINARY MEDICAL EXAMINERS

Chapter 801, Texas Occupations Code, and with the Board's Rules.

2. Based on Findings of Fact 1 & 2, Respondent has violated Rule of Professional Conduct 573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT, which requires veterinarians to exercise the same degree of humane care, skill and diligence in treating patients as is ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community in which they practice, or in similar communities.

3. Based on Finding of Fact 1 & 2 and Conclusions of Law 1 & 2, Respondent has violated §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 §801.401 if the person:

(6) engages in practices or conduct that violates the board's rules of professional conduct.

5. Based on Conclusions of Law 1-4, Respondent is subject to disciplinary action under §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 §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 Respondent be INFORMALLY REPRIMANDED.

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.

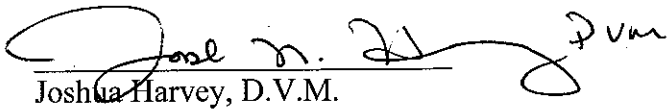
3. Failure by Respondent to comply with the terms of this Agreed Order or with any other provisions of the Licensing Act or the Board Rules, may result in further disciplinary action.

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

I, JOSHUA HARVEY, 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.

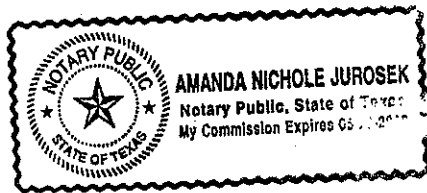
  
Joshua Harvey, D.V.M.

7-24-09  
Date

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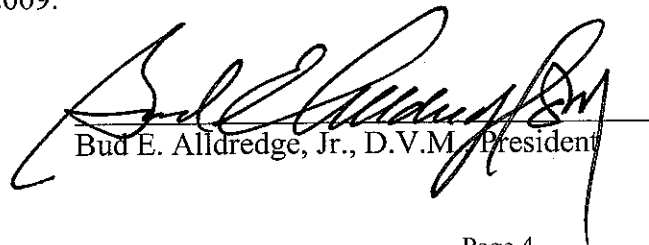
BEFORE ME, on this day, personally appeared JOSHUA HARVEY, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 24 day of July, 2009.



  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 26 day of October, 2009.

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