

RECEIVED

SEP 02 2014

DOCKET NO. 2014-222
SOAH DOCKET NO. 578-14-4627

TBVME
LEGAL DEPT.

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

AGREED ORDER

On this date 21st of October, 2014, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Mendi Hill, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.29, an informal conference was held on July 14, 2014. Respondent attended the informal conference and was represented by counsel, Don Ferrill, D.V.M. 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 her understanding of the alleged violations and the adequacy and sufficiency of the notice provided to her.

Upon the recommendation of the staff 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, Mendi Hill, D.V.M. of Carrollton, Texas, holds Texas veterinary license 8548.
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. On July 3, 2014, Detective Tye Bell of the Richland Hills Police Department contacted the Board. He reported that police and medics were dispatched to the Penny Paws Animal Clinic (the "Clinic") in Richland Hills, Texas on July 2, 2014, at approximately 6:00 p.m. Clinic office staff had contacted police due to the behavior of Respondent. Specifically, staff reported that Respondent was unable to walk and had slurred speech. Staff stated that they believed Respondent had been taking Ketamine, a Controlled Substance in Penalty Group 1 of the Texas

Health and Safety Code, from the Clinic and abusing it for personal use. Detective Bell provided the Board with witness statements regarding the incident, police narratives regarding the incident, photographs, and a police report regarding the incident.

4. On July 1, 2014, Respondent took a syringe and a bottle of Ketamine into the bathroom at the Clinic. Additionally, eight empty medicine bottles labeled as including Ketamine were found at her work station in the Clinic's office.

5. On July 2, 2014, Respondent injected herself with Ketamine, without a prescription, at the Clinic while working as a veterinarian and was visually impaired due to that injection. Two medicine bottles labeled as containing Ketamine and which did contain a clear liquid were found in Respondent's bag. Two empty syringes were also found at her work station near her in her office.

6. Respondent injected herself with Ketamine, without a prescription, at the Clinic while working as a veterinarian on more than one day.

7. The Board received a police report from the Richland Hills Police Department which states that Respondent is a suspect in the Theft of Property with a value of between five hundred dollars (\$500) and one thousand and five hundred dollars (\$1,500) with the offense beginning on June 23, 2014 and ending on July 2, 2014.

8. On July 7, 2014, the Executive Disciplinary Committee entered an Order of Temporary Suspension (Without Notice of Hearing) against Respondent finding that a temporary suspension of her license was necessary because Respondent was a continuing or imminent threat and real danger to the public welfare, including the health of the Respondent's patients and/or to the public from the acts or omissions of Respondent caused through Respondent's impaired status. Respondent was served this Order of Temporary Suspension (Without Notice of Hearing) by email and overnight mail on July 7, 2014.

9. During the Board's investigation of this matter, the Board determined that Respondent was charged on December 18, 2013, for obstructing a highway passageway, a Class B Misdemeanor, and that on March 12, 2014, Respondent was charged for leaving the scene of an accident which caused 200 dollars of damage or more to all vehicles involved in the accident, also a Class B Misdemeanor. On December 18, 2013, the arresting officer observed that Respondent was asleep over the center console and that the car had a very strong odor of alcohol. On March 12, 2014, the arresting officer observed that Respondent appeared to have slurred speech and was unsteady on her feet. The Board's records do not show that Respondent notified the Board of either charge. Respondent pled no contest and was convicted of the Class B Misdemeanor of obstructing a highway passageway on July 9, 2014. The Board's records do not show that Respondent notified the Board of that conviction either.

10. On July 14, 2014, the Enforcement Committee of the Board met pursuant to Section 801.409(c) and Board Rule 575.35 and determined that disciplinary proceedings should be initiated against Respondent. The Enforcement Committee also sent Respondent an Order of

Continued Temporary Suspension.

11. On July 10, 2014, the United States Drug Enforcement Agency Investigator Marina Castillo (Ms. Castillo), performed an inspection of the Clinic and confiscated, among other things, the Ketamine on the premises. Ms. Castillo also performed an inventory of the Ketamine from the Clinic and the Clinic's last inventory was done on May 14, 2014. The amount of Ketamine in the log for May 14, 2014 was 43.9 milliliters. Subsequent to May 14, 2014, Respondent ordered 320 milliliters of Ketamine which raised the inventory at the Clinic to 363.9 milliliters. On July 10, 2014, the Clinic had 150 milliliters of what was believed to be Ketamine on the premises. The records for the Clinic only recorded 14 milliliters of Ketamine for use in veterinary medicine. Therefore, Ms. Castillo determined that 199.9 milliliters of Ketamine was missing from the inventory at the Clinic.

12. Respondent surrendered her DEA controlled substance privileges, commonly referred to as her DEA license, on July 11, 2014.

13. On July 24, 2014, Board Investigator Karen Hudson took custody of 15 medicine bottles from the Richland Hills Police Department. Those 15 bottles were then transported to the Texas A&M Veterinary Medical Diagnostic Laboratory ("TVMDL") in College Station, Texas on that same day.

14. On July 29, 2014, Robert Franklin, D.V.M., provided the Board with a statement. Dr. Franklin stated that Respondent ordered 32 bottles of Ketamine, holding 10 milliliters of 100 milligram per milliliter Ketamine in each bottle, during the month of July. However, Dr. Franklin stated that Respondent was not using Ketamine in her anesthetic protocol during her practice of veterinary medicine at the Clinic.

15. On August 5, 2014, Respondent provided the Board's Peer Assistance Program with a hair follicle sample for laboratory analysis.

16. On August 7, 2014, John Lehman, Ph.D., diagnosed Respondent as suffering from a severe Ketamine substance use disorder as well as suffering from a severe alcohol substance use disorder.

17. On August 13, 2014, the Board's Peer Assistance Program provided the Board with the results of the hair follicle test of Respondent performed on the hair follicle sample collected on August 5, 2014. The test came back positive for the metabolized version of Ketamine meaning that Respondent ingested Ketamine within the three months prior to submitting the hair follicle sample.

18. On August 15, 2014, TVMDL provided the Board with a report on the 15 bottles of medicine that the Board provided to TVMDL on July 24, 2014. The results were that all 15 bottles had Ketamine in those bottles, but that the concentration on 11 of the bottles was not the 100 milligram per milliliter that the label on the bottles stated. The concentration of Ketamine in 10 of those 11 bottles were significantly below the 100 milligrams per milliliter concentration, with 9 out of that 10 being lower than 10 milligrams per milliliter or lower than a tenth of the concentration stated on the label, and the eleventh bottle having a concentration of 160

milligrams per milliliter. The highest concentration of Ketamine that is commercially sold is 100 milligrams per milliliter.

19. Based on this information, Respondent has been chronically and habitually intoxicated, chemically dependent, or addicted to drugs.

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. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
2. Based on the above Findings of Fact, Respondent has violated Board Rule 573.4, ADHERENCE TO THE LAW.
3. Based on the above Findings of Fact, Respondent has violated Board Rule 573.60, PROHIBITION AGAINST TREATMENT OF HUMANS, by prescribing the need for and administering Ketamine to herself.
4. Based on the above Findings of Fact, Respondent has violated Board Rule 573.61, MINIMUM SECURITY FOR CONTROLLED SUBSTANCES, by failing to keep Ketamine bottles stored in a substantially constructed security cabinet.
5. Based on the above Findings of Fact, Respondent has violated Board Rule 573.70, REPORTING OF CRIMINAL ACTIVITY, by failing to report her criminal charge within 30 days of December 18, 2013, failed to report her criminal charge within 30 days of March 12, 2014.
6. Based on the above Findings of Fact, Respondent has violated Section 801.402 (3) of the Veterinary Licensing Act, Texas Occupations Code, GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION, which states a licensee is subject to disciplinary action for being chronically or habitually intoxicated, chemically dependent, or addicted to drugs.
7. Based on the above Findings of Fact, Respondent has violated Section 801.402 (6) of the Veterinary Licensing Act, Texas Occupations Code, GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION, which states a licensee is subject to disciplinary action when a licensee engages in practices or conduct that violates the board's rules of professional conduct.
8. 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 Respondent receive a FORMAL REPRIMANDED.

In addition, the Board ORDERS that Respondent enter into a Peer Assistance Contract under the Board's Peer Assistance Program for five years from the date of this Order. Respondent shall follow any and all recommendations of the Peer Assistance Program Coordinator which may include, but are not limited to, drug testing and participation in in-patient counseling. In addition, at the request of a representative of the Board or the Board's Peer Assistance Program, with or without notice, Respondent shall submit to appropriate examinations, including screenings for alcohol and drugs, through either a saliva, urine, blood, sweat, or hair specimen, to determine by laboratory analysis whether Respondent is free of prohibited drugs and alcohol. Respondent shall pay any costs associated with these analyses. Respondent shall execute any and all releases for medical records necessary to evaluate compliance with this order and/or are necessary to effectuate this order. Any violation of the terms of her contract with the Board's Peer Assistance Program subjects Respondent to possible immediate revocation of her license.

The Board further ORDERS that the license of Respondent is SUSPENDED for FIVE YEARS from the date the Board adopts this Order. However, the remaining suspension is STAYED after July 7, 2015. Respondent is not to practice veterinary medicine between the date of the adoption of this Order and July 7, 2015.

During the probated suspension, Respondent shall abstain from the consumption of prohibited substances as defined below, except as prescribed by another physician to Respondent for legitimate and documented therapeutic purposes. As used in this provision, "consumption" means any manner of ingestion, including oral, injection, topical, inhalation, or otherwise. Prohibited substances, as used in this order, includes:

- 1) alcohol in any form;
- 2) Dangerous drugs, as defined in Chapter 483, Tex. Health & Safety Code;
- 3) Controlled substances, as defined in Chapter 481, Tex. Health & Safety Code;
- 4) Any substance, in any form, including over-the-counter (OTC) agents and food products, that may cause a positive drug or alcohol test.

The following is an illustrative, but not exclusive, list of prohibited substances:

- 1) Stimulants
- 2) Appetite suppressants
- 3) Medication for ADD/ADHD

- 4) Anti-anxiety agents
- 5) Antidepressants
- 6) Antihistamines
- 7) Anticholinergics
- 8) Antispasmodics
- 9) Recreational, mind-altering drugs
- 10) Any product containing pseudophedrine or epinephrine
- 11) Alcohol
- 12) Any product containing alcohol, including mouthwashes, cough medicines, after shave lotions, colognes, hand sanitizing formulas, and dietary and herbal supplements
- 13) Food containing any of the above and/or poppy seeds.

Within five days after receipt of this Board-signed Order, Respondent shall:

- 1) Provide to the General Counsel at TBVME a list of all prohibited substances that Respondent is currently consuming, whether by prescription or otherwise;
- 2) Give any treating physician or dentist a copy of this Order;
- 3) Cause any treating physician or dentist to report all prescriptions and orders for any prohibited substance within five days after the treating physician or dentist receives this Order. The report shall include the medical condition being treated; the supporting documentation, including lab results to substantiate the diagnosis; the substance prescribed, dispensed or administered; the amount of such substance; and any refills authorized.

During the term of this Order, Respondent shall:

- 1) Provide to the General Counsel for the Board a list of all subsequent prescriptions and any subsequent orders for prohibited substances within 24 hours after receipt of the subsequent prescription or order; and
- 2) Give any subsequent treating physician or dentist a copy of this Order within five days after the initiation of the treatment, and Respondent shall cause the subsequent treating physician(s) or dentist(s) to report all prescriptions and any orders for prohibited substances to the General Counsel of the Board no later than five days after receipt of this Order by the treating physician. The report shall include the medical condition being treated; the supporting documentation, including lab results to substantiate the diagnosis; the substance prescribed, dispensed or administered; the amount of such substance; and any refills authorized.

If Respondent consumes any prohibited substance in any form without prescription or order authorized by a physician for a legitimate medical purpose, Respondent shall immediately report Respondent's consumption in writing within 24 hours to the General Counsel of the Board.

A violation of this Order under this provision shall include: (1) a positive or a positive-dilute screen for prohibited drugs or alcohol, or a metabolite of prohibited drugs or alcohol; (2) an

adulterated specimen; (3) a substituted specimen; or (4) a refusal or failure to submit to random screenings. Should a specimen be reported as negative-dilute, Respondent may be required to undergo additional testing and may be subject to further Board action. A violation may be based on drug and alcohol screening under the Peer Assistance Program or any other drug and/or alcohol testing.

- (a) Evidence of a violation of this Order under this provision and any other information related to Respondent's violation of this Order may be presented to Board representatives at an informal proceeding held in accordance with 22 Tex. Admin. Code, §575.29.
- (b) If the Board representatives at such informal proceeding determine that Respondent is in violation of this Order pursuant to this provision, the Board representatives may direct the Executive Director to immediately **REVOKE** Respondent's veterinary license. **THIS REVOCATION SHALL BE EFFECTIVE IMMEDIATELY WITHOUT THE NEED FOR A FORMAL HEARING BEFORE THE BOARD, A PANEL OF THE BOARD, OR THE STATE OFFICE OF ADMINISTRATIVE HEARINGS OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE VETERINARY LICENSING ACT OR THE ADMINISTRATIVE PROCEDURE ACT. RESPONDENT WAIVES ANY SUCH HEARING OR ANY SUCH DUE PROCESS AND ALL RIGHTS OF APPEAL IN REGARD TO THE SUSPENSION.**
- (c) If Respondent is revoked under this provision, a Board representative shall file a formal complaint under Section of the Veterinary Licensing Act as soon as practicable, alleging the violations of this Order under this provision and seeking revocation of the Respondent's license. The formal complaint may also include allegations of other violations of this Order and violations of the Veterinary Licensing Act. The parties may resolve the issues by an agreed order, either before or after the filing of a formal complaint. **RESPONDENT DOES NOT WAIVE AND SPECIFICALLY RESERVES THE RIGHT TO A HEARING BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS, WITH ALL RIGHTS PROVIDED BY THE VETERINARY LICENSING ACT OR THE ADMINISTRATIVE PROCEDURE ACT AND THE RIGHT TO SEEK JUDICIAL REVIEW OF THE FINAL ORDER.**

Respondent shall be solely responsible for and promptly pay all costs and charges by any facility that conducts screens on Respondent pursuant to this Order to determine whether Respondent has ingested alcohol or drugs. Respondent's failure to promptly pay these costs shall constitute a violation of this Order and shall be grounds for further disciplinary action under the Act.

Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within 10 days of the address change. This information shall be submitted to the Director of Licensing and the General Counsel of the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

The Board further ORDERS that:

1. Respondent shall abide by the Board's 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. Failure to fully cooperate shall constitute a violation of this Order and a basis for disciplinary action against Respondent pursuant to the Act.
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, shall constitute a violation of this Order and a basis for disciplinary action against Respondent pursuant to the Act.

Respondent, by signing this Agreed Order, acknowledges her understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law set forth herein, and agrees that she 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 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.

THIS ORDER IS A PUBLIC RECORD.

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

I, MENDI HILL, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING THIS ORDER, 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.

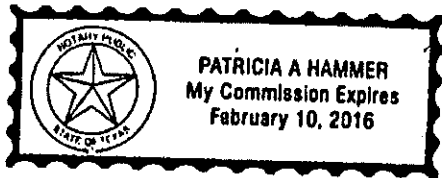
Mendi Hill DVM
Mendi Hill, D.V.M.

September 2, 2014
Date

STATE OF TEXAS §
COUNTY OF DALLAS §

BEFORE ME, on this day, personally appeared Mendi Hill, 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 2 day of Sept., 2014.



Patricia A. Hammer
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 21 day of October, 2014.

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