

AGREED ORDER 2009-37

**IN THE MATTER OF
THE LICENSE OF
JON JOHNSON, D.V.M.**

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**TEXAS BOARD OF
VETERINARY
MEDICAL EXAMINERS**

AGREED ORDER

On this the 11th day of June 2008, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of JON JOHNSON, D.V.M. ("Respondent"). Pursuant to §801.408 of the Veterinary Licensing Act and Board Rule §575.27, an informal conference was held on February 13, 2009. Respondent was represented by his attorney, Donald A. Ferrill, D.V.M. The Board was represented at the conference by its 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 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 him. By entering into this Agreed Order, Respondent does not admit any violation of the Texas Veterinary Licensing Act or the Board's Rules and, in fact, is denying any such violation and has entered into this Agreed Order simply to avoid the time and expense that would be involved in a formal adjudicative hearing. In effect, by agreeing to compromise this claim, Respondent has entered a plea of *no lo contendere* such that this Agreed Order would not be admissible in a subsequent proceeding pursuant to TEX. R. CIV. EVID. 408 and 410.

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 March 26, 2008, Ivan Alejandro Chaparro was found in possession of legend drugs, and observed to be performing equine dentistry at Sam Houston Race Park (SHRP). According to an affidavit filed in Harris County District Court by Sgt. Eric Williams, of the TDPS, on March 26, 2008, Mr. Chaparro was observed to be in possession of 25 grams of a legend

drug, Xylazine. Mr. Chaparro admitted to Sgt. Williams that he is not a licensed veterinarian but has been conducting veterinary procedures at SHRP. According to Mr. Chaparro's statement, he is hired by horse trainers at the SHRP to perform veterinary procedures as he charges a reduced rate compared to licensed veterinarians. Mr. Chaparro also stated that he received Xylazine from Dr. Jon Johnson, D.V.M. According to Mr. Charparro, Mr. Chaparro works for Dr. Johnson, who is a licensed veterinarian in return for the receipt of Xylazine.

2. On April 4, 2008, Sgt. Williams conducted an inspection of Respondent's drug inventory records. He compared the vials of Xylazine in Mr. Chaparro's possession with Respondent's records. The lot numbers of Xylazine vials in Mr. Chaparro's possession indicated the drugs were from the same lot as the Xylazine in Dr. Johnson's inventory. Respondent admitted that he gave Mr. Chaparro Xylazine to perform teeth floating on Respondent's clients' horses. Respondent has no patient records reflecting amounts administered to specific animals.
3. According to Respondent's written statement provided on October 25, 2008, his practice since 2004 consists primarily of the provision of equine services at racetracks located in Houston, San Antonio and Manor, Texas. Respondent met Mr. Chaparro, a Columbian citizen, in 2004, and employed him as a veterinary assistant for four years. However, Respondent has no employment or tax records for Mr. Chaparro. Respondent claims that the horse Mr. Chaparro was observed administering Xylazine to at SHRP was not a client's animal. Respondent stated that the Xylazine was dispensed to Mr. Chaparro for use on Respondent's patients on a client's farm. Respondent delivered legend drugs to Mr. Chaparro when he knew, or should have known, of the potential for diversion of said drugs by Mr. Chaparro.

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 - 3, Respondent has violated §§573.10 and 573.52 of the Board's Rules, set forth below.

By delivering prescription drugs to Mr. Chaparro when he knew, or should have known, of the potential for diversion of said drugs. Respondent has violated §§573.10 and 573.52 of the Board's Rules of Professional Conduct.

573.10 SUPERVISION OF NON-LICENSED EMPLOYEES. The licensee is directly responsible for all actions of non-licensed employees acting under the licensee's directions or authorization. A licensee failing to properly supervise a non-licensed employee or improperly delegating care and/or treatment responsibilities may be subject to disciplinary action by the Board. Respondent failed to properly supervise his employee, Ivan Chaparro, which lead to the diversion of legend drugs.

573.52 (a) PATIENT RECORD KEEPING. Individual records will be maintained at the veterinarian's place of business and include, but are not limited to (1) name and address of client (2) patient identity (3) patient history (4) dates of visits (5) any immunization records (6) weight if required for diagnosis or treatment (7) temperature if required for diagnosis or treatment except when treating a herd (8) any laboratory analysis (9) any radiographs (10) names, dosages, concentration, and routes of administration of each drug prescribed, administered and/or dispensed (11) other details necessary to substantiate the examination, diagnosis, and treatment provided, and surgical procedure performed.

(d) . . . Records to be maintained on [a herd] may be kept in a daily log, or the billing records, provided that the treatment information that is entered is adequate to substantiate the identification of [the herd] and the medical care provided . . .

Respondent has failed to maintain records in compliance with the Rules with regard to "herd" animals owned by his "clients" that Mr. Chaparro administered prescription drugs to with Respondent's authorization.

3. Based on Findings of Fact 1 - 3 and Conclusions of Law 1 - 2, Respondent has violated **§801.402(6)** of the Act, 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.

4. Based on Conclusions of Law 1 - 3, Respondent is subject to disciplinary action under **§801.401** of the Act:

§801.401. DISCIPLINARY POWERS OF THE BOARD. (a) If an applicant or licence 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's license to practice veterinary medicine be **SUSPENDED** for a period of twelve (12) months, with the entire suspension period probated.

The Board further ORDERS that:

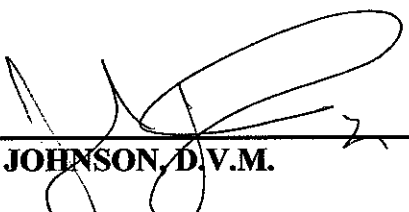
Respondent, by signing this Agreed Order, acknowledges his understanding of the Agreed Order, Notice, Findings of Fact and Conclusions of Law set forth herein, and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary 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 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 THIS IS A FINAL ORDER.

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

I, JON L. JOHNSON, 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.



JON JOHNSON, D.V.M.
STATE OF TEXAS §
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COUNTY OF _____ §

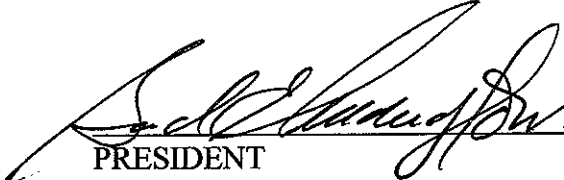
Date 7 Apr 09

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

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

NOTARY PUBLIC in and for the State of Texas

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



D.V.M.
PRESIDENT