



designated by an institution not approved by the Board.

4. On Dr. Kincaid's business card, the following words appear: "Natural Healing for Pets and People." Dr. Kincaid has acknowledged that he provides naturopathy treatments and remedies to humans as well as animals.

#### **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 and 2, Dr. Kincaid has violated Rule 573.16, ALTERNATIVE THERAPIES - HOMEOPATHY, of the Board's Rules of Professional Conduct, because he did not (a) secure a signed statement from the client acknowledging that homeopathy is an alternate therapy in veterinary medicine and approving its use in the treatment of the patient; and (b) inform the client of the conventional treatments available and their probable ability to cure a problem.

3. Based on Finding of Fact 2, Dr. Kincaid has violated Rule 573.52, PATIENT RECORD KEEPING, of the Board's Rules of Professional Conduct, which requires that patient records be complete and contain details necessary to substantiate treatment of patients.

4. Based on Finding of Fact 3, Dr. Kincaid has violated Rule 573.33, DISPLAY OF DEGREE, CERTIFICATE, OR TITLE FROM APPROVED INSTITUTIONS ONLY, of the Board's Rules of Professional Conduct, which prohibits the use or display of any degree, certificate, or title pertaining to veterinary medicine granted by any institution not approved by the Board.

5. Based on Finding of Fact 4, Dr. Kincaid has violated Rule 573.60, PROHIBITION AGAINST TREATMENT OF HUMANS, which prohibits care and treatment of humans by a veterinarian.

6. Based on Conclusions of Law 1 through 5, Dr. Kincaid has violated Section 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:

(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 a civil 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 Joseph A. Kincaid, D.V.M., be FORMALLY REPRIMANDED.

The Board further ORDERS that the Respondent pay, within forty-five (45) days of the date of this Order, an administrative penalty of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1500.00). If Respondent fails to pay the administrative penalty within 45 days of the date of this Order, Respondent's license shall be suspended until the administrative penalty is paid.

The Board further ORDERS that Respondent take and pass the Board's JURISPRUDENCE EXAMINATION within 45 days of the Order. If Respondent fails to take and pass the jurisprudence examination within 45 days of the date of this Order, Respondent's license shall be suspended until Respondent does take and pass the examination. Respondent may not re-take the examination any more frequently than 10 working days from the date of his last sitting for the examination. Should Respondent engage in the practice of veterinary medicine when under suspension, he will be subject to immediate disciplinary action.

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.

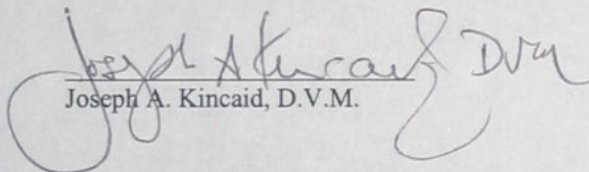
Respondent, by signing this Agreed Order, acknowledges his understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate 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 is 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, **JOSEPH A. KINCAID**, 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.

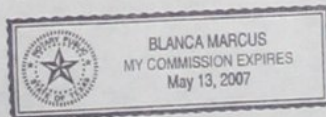
  
Joseph A. Kincaid, D.V.M.

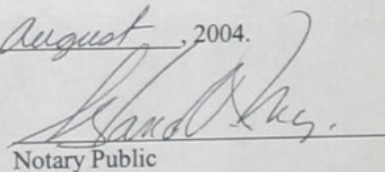
17 Aug 04  
Date

STATE OF TEXAS §  
COUNTY OF EL PASO §

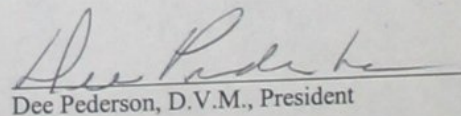
BEFORE ME, on this day, personally appeared JOSEPH A. KINCAID, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 17 day of August, 2004.



  
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 14th day of October, 2004.

  
Dee Pederson, D.V.M., President

MARTIN T. CANTU, ATTORNEY AT LAW

P.O. Box 82348  
AUSTIN, TEXAS 78708-2348

(512) 615-2453

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August 18, 2004

Mr. Lee Mathews  
General Counsel  
Texas Board of Veterinary Medical Examiners  
333 Guadalupe, Suite 2-330  
Austin, Texas 78701-3998

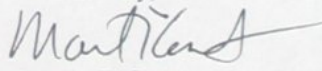
Re: Complaint against Joseph A. Kincaid, D.V.M.  
Case No. 04-004

Dear Mr. Mathews:

I am enclosing the original order signed by Dr. Kincaid. Please forward me a copy of the order with Dr. Peterson's signature when it is available.

Thanks for all your help.

Sincerely,



Martin T. Cantu

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AUG 20 2004  
TEXAS STATE BOARD OF  
VETERINARY MEDICAL EXAMINERS