

IN THE MATTER OF § TEXAS BOARD OF
 THE LICENSE OF § VETERINARY
 JOHN P. KOTTENSTETTE, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 22 day of March, 2010, came on to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of John P. Kottenstette, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on September 15, 2009 to consider alleged violations of the Veterinary Licensing Act and the Board's rules by Respondent.

Respondent wishes to waive a conference under Section 801.2056 and thereby dispose of the compliance issues set out below. Respondent agrees to comply with the terms and conditions set forth in this Order. In waiving the right to a conference, Respondent acknowledges his understanding of the alleged violations and the adequacy and sufficiency of the notice mailed to him.

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. On October 28, 2008, an investigation was opened by TBVME on John P. Kottenstette, D.V.M. of Cypress, Texas based upon inquiries from clients seeking their medical records. The clients advised TBVME that Respondent was no longer practicing at 11920 Barker Cypress Rd., Cypress, Texas, the practice address Respondent had on file with TBVME. On January 23, 2009 TBVME sent a letter to Respondent at the home address he had on file with TBVME, requesting a response to the investigation that Respondent had not notified TBVME of his change of address. On May 18, 2009 TBVME sent another letter to the practice address listed with the California Veterinary Medical Board requesting a response to the investigation that Respondent had not notified TBVME of his change of address. Respondent has provided no response to either requests.

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.

Agreed Order 2010-10
John P. Kottenstette, D.V.M.

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2. Based on Finding of Fact 1, Respondent has violated Rule 573.75, NOTIFICATION OF LICENSEE ADDRESSES, of the Board's Rules of Professional Conduct, which requires veterinarians to report to the Board any change of address not later than the 60th day after the change takes place. In addition, a licensee is required to report to the Board their physical business address, mailing address and home address.

3. Based on Finding of Fact 1 and Conclusions of Law 1 and 2, Respondent 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.

4. 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.

5. Based on Conclusions of Law 1 through 3, 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, and in the manner set out in Section 801.401 DISCIPLINARY POWER OF BOARD.

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 pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of five hundred dollars (\$500.00). 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 penalty is paid.

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.

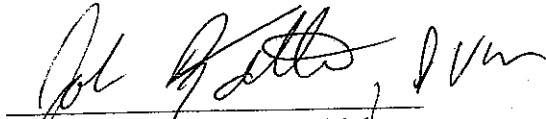
Respondent, by signing this Agreed Order, acknowledges his understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate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

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

I, JOHN P. KOTTENSTETTE, 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.


John P. Kottenstette, D.V.M.

1/1/10
Date

STATE OF TEXAS §
COUNTY OF _____ §

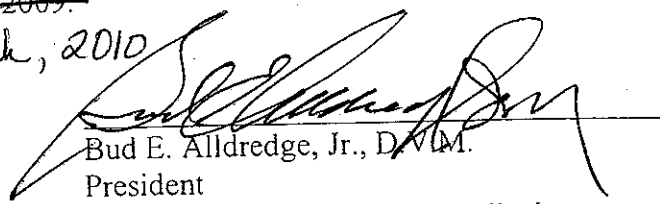
BEFORE ME, on this day, personally appeared John P. Kottenstette, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that he executed the same for the purposes stated therein.

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

Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the ~~8th~~ day of ~~October, 2009.~~

22 March, 2010


Bud E. Alldredge, Jr., D.V.M.
President
Texas Board of Veterinary Medical
Examiners