

DOCKET NO. 2011-14

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

**AGREED ORDER**

On this, the 13 day of Dec., 2010, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of LYNN STUCKY, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on October 7, 2010 to consider alleged violations of the Veterinary Licensing Act and the Board's rules by Respondent.

Respondent, without admitting the truth of the findings and conclusions set out in this Agreed Order, 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. In the process of investigating a complaint regarding the unlicensed practice of veterinary medicine, a Board investigator purchased one tablet of Comfortis [a dangerous drug] from Cheryl Frame at Barks-N-Bubbles, a grooming business in Sanger, Texas. During the investigation it was determined that Barks-N-Bubbles obtained Comfortis from Lynn Stucky, D.V.M., License No. 5268, Sanger, Texas.
2. During the investigation, Dr. Stucky acknowledged the sale of Confortis to Barks-N-Bubbles. Dr. Stucky sold and dispensed Comfortis and other dangerous drugs to Cheryl Frame at Barks-N-Bubbles on at least ten (10) occasions from September 9, 2008 until July 2010. The records obtained from Dr. Stucky also included fifteen (15) forms filled out at Barks-N-Bubbles to document the sale of Comfortis to clients of Barks-N-Bubbles.

3. According to the statement by Dr. Stucky, both Cheryl Frame and Gina Byrom, the owners of Barks-Bubbles, are veterinary clients. Ms. Frame and Ms. Byrom expressed to him a need for a product that could immediately treat flea and/or tick problems on their grooming clinics. Dr. Stucky stated it was his understanding that the medications would only be administered to his clients as a onetime only treatment. Dr. Stucky believed this would be more convenient for his clients instead of them having to come into his clinic. Dr. Stucky stated that he now understands he cannot dispense prescription medication without a veterinarian-client-patient relationship and has stated he has stooped this practice.

### **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 Finding of Facts 1 through 3, Respondent has violated Rule 573.41, USE OF PRESCRIPTION DRUGS, of the Board's Rules of Professional Conduct, which states it is unprofessional conduct for a licensed veterinarian to prescribe or dispense, deliver, or order delivered any prescription drug without first having a veterinarian/client/patient relationship and determined that such prescription drug is therapeutically indicated for the health and/or well-being of the animal(s).

3. Based on Finding of Facts 1 through 3 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.

NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Lynn Stucky, D.V.M., be FORMALLY REPRIMANDED.

The Board further ORDERS that Respondent pay, within 30 days of the date of this Order, an ADMINISTRATIVE PENALTY of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00). If Respondent fails to pay the administrative penalty within 30 days of the date of this Order, enforcement action will be taken.

The Board further ORDERS that Respondent's license be SUSPENDED for one year, with said SUSPENSION STAYED and Respondent placed on PROBATION for the entire period of SUSPENSION.

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.

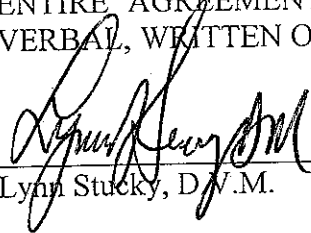
Respondent, by signing this Agreed Order, acknowledges his understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate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

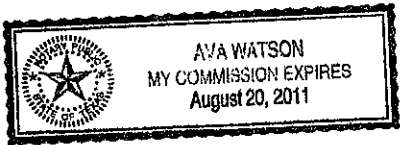
  
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Lynn Stucky, D.V.M.

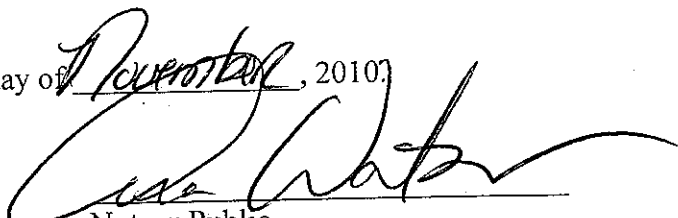
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STATE OF TEXAS §  
COUNTY OF Tarrant §

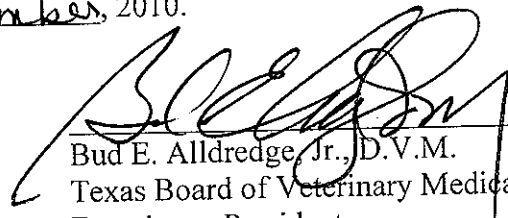
BEFORE ME, on this day, personally appeared Lynn Stucky, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 10<sup>th</sup> day of November, 2010.



  
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Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 13 day of December, 2010.



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