

DOCKET NO. 2005-34

IN THE MATTER OF § TEXAS STATE BOARD OF
THE LICENSE OF §
JAYMES MORTENSEN, D.V.M. § VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 9th day of June, 2005, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of JAYMES MORTENSEN, D.V. M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on March 31, 2005. The Respondent attended without counsel. 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 his understanding of the alleged violations and the adequacy and sufficiency of the notice provided to him.

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 November 18, 2004, the Board opened a complaint based on information received from a pharmacist at the Eckerd Drug Store No. 3162, Keller, Texas, indicating that Jaymes Mortensen, D.V.M., was writing prescriptions for medications for human use. Records obtained from Eckerd showed prescriptions for a variety of drugs over the period April 8, 1997 to September 20, 2004, including Celebrex, Premarin, Darvocet, Albuterol, Paroxetine, Claritin, Paxil, Benzaclin Topical Gel, Wellbutrin XL, and others.

2. In a written statement dated December 15, 2004, Dr. Mortensen admitted that he had been writing prescriptions for his wife and children. He began writing the prescriptions when his wife suffered a hand injury and needed pain medications. Instead of accepting the expense of seeing a medical doctor when prescriptions were refilled, Dr. Mortensen began writing them himself. When his son developed eczema and acne, he began refilling the prescriptions that were originally prescribed by a dermatologist. Dr. Mortensen stated that he never prescribed medications for himself. Mr. Mortensen says that he is now divorced and lives at his clinic.

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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. Mortensen has violated Rule 573.60, PROHIBITION AGAINST TREATMENT OF HUMANS, which states that a veterinarian shall not provide care and treatment of humans, including dispensing prescription medication for personal use by a human.

3. Based on Conclusions of Law 1 through 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 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 JAYMES MORTENSEN, D.V.M., be FORMALLY REPRIMANDED.

The Board further ORDERS that License No. 5332 issued to JAYMES MORTENSEN, D.V.M., be suspended for ONE YEAR from the date of this Order. Said suspension is stayed and Respondent is placed on probation for the entire period of ONE YEAR. Any additional violations incurred by Respondent while on probation will result in immediate reinstatement of the

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suspension and any other disciplinary action deemed appropriate by the Board.

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 not 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, JAYMES MORTENSEN, 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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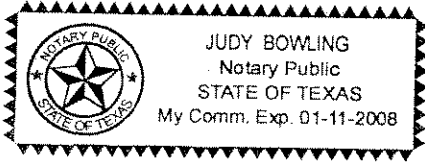
Jaymes Mortensen
Jaymes Mortensen, D.V.M.

Date 5/9/05

STATE OF TEXAS §
COUNTY OF Tarrant §

BEFORE ME, on this day, personally appeared JAYMES MORTENSEN, 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 9th day of May, 2005.



Judy Bowling
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 9th day of June, 2005.

Gary C. Brantley, D.V.M.
Gary C. Brantley, D.V.M., President