DOCKET NO. 1996-24

IN THE MATTER OF THE LICENSE OF JAMES ROBERT KEMP, DVM

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the __ day of ____, 1997, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board"), the matter of the license of JAMES ROBERT KEMP, DVM, ("Respondent" or "Dr. Kemp"). On July 17, 1996, the Executive Committee of the Board held an Emergency meeting in accordance with 14C of the Veterinary Licensing Act, Tex. Civ. Stat. art. 8890 ("Act"), the Executive Committee ordered the temporary suspension of Respondent's veterinary license, effective immediately. Pursuant to Rules of Disciplinary Procedure ("Board Rules"), Rule 573.67, the Enforcement Committee of the Board held a hearing on July 26, 1996, to determine that Respondent had violated the Act and the Board Rules, and initiated formal disciplinary action. Respondent sent the Board written notification that he waived attendance at the Enforcement Committee hearing. Notice on all allegations was given to Respondent, who was also advised of his entitlement to legal presentation and an adjudicative hearing.

Respondent wishes to waive a formal adjudicative hearing and to enter into this Agreed Order. In waiving an adjudicative hearing Respondent acknowledges understanding of the alleged violations and the adequacy and sufficiency of the notice provided to him.

Upon 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 Order as set forth below:

Findings of Fact

1. James Robert Kemp, DVM, is a veterinarian licensed by the Board to practice veterinary medicine in the state of Texas under license number 4543, renewal certificate number 4702.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent has received all notice which may be required by law and by the Board Rules. All Jurisdictional requirements have been satisfied.
3. Respondent has self-administered ketamine hydrochloride (trade name "Ketose") for its "calming effect." Ketose is an anesthetic agent used in the practice of veterinary medicine; it is classified as a dangerous drug.

4. Respondent has been observed to be intoxicated while practicing veterinary medicine. He was observed to be intoxicated while at work on July 6, 1996, by a peer assistance intervention committee.

5. Respondent suffers from the disease of chemical dependency.

6. Two chemical dependency evaluations conducted between July 15, and July 17, 1996, indicate Respondent had severe chemical dependency. Both evaluations recommended long-term residential treatment. Both evaluations further recommended extended continuing treatment following release from residential treatment.

7. Respondent entered COPAC, a residential treatment program in Brandon, Mississippi on or about July 18, 1996. Respondent was discharged from COPAC on November 15, 1996.

8. Respondent requires effective long-term residential treatment and extended continuing treatment following discharge, because Respondent's continued treatment of animals gives him continued access to dangerous drugs. In such situations Respondent's chemical dependency constitutes a potential continuing or imminent threat to the public welfare.

Conclusions of Law

1. Respondent is bound to follow the provision of the Act and Board Rules.

2. Section 14(a) of the Act authorizes the Board to revoke or suspend a license, impose a civil penalty, place a licensee on probation, or reprimand a licensee based on certain acts.

3. Respondent has violated 14(a)(2) based on his chronic or habitual chemical dependency and/or addiction to drugs. Respondent has violated 14(a)(5) of the Act by engaging in practices or conduct in connection with the practice of veterinary medicine which were violative of the standards of professional conduct duly promulgated by the Board.

4. These violations subject Respondent to disciplinary action by the Board under Act 14(a).

Based on the above finding of fact and conclusions of law, the Board ORDERS that Dr. Kemp's
veterinary license is SUSPENDED; however the suspension may be STAYED and placed on PROBATION under the following terms and conditions:

1. Respondent's veterinary license be suspended for a period of 24 months commencing July 17, 1996. Such suspension to remain in effect until such time as Respondent provides the Board with a written verification from his medical treatment team at COPAC that he has completed the recommended in-house treatment program.

2. Upon verification of Respondent's completion of residential treatment, the suspension of his license shall be probated for the remainder of its term subject to the following terms and conditions:
   a. Respondent shall remain abstinent from all alcohol and other mind altering drugs or controlled substances, except on rare occasions where drugs are approved by a treating physician or psychiatrist and with the approval of the Medical Program Director, Texas Veterinarian Peer Assistance Program.
   b. Respondent shall comply with all requirements of the Board's Peer Assistance Program and shall be subject to the supervision of a monitor acceptable to the Board, if recommended by the Program Director. Participation in the Peer Assistance Program may include, but is not limited to, attendance at 3 or more weekly meeting of a chemical dependency support group. Respondent shall fully cooperate with the Peer Assistance Program and shall make a bona fide effort to work actively in his recovery. Respondent shall submit verified quarterly reports to the Program Director documenting his attendance at required meetings and compliance with other requirements.
   c. Respondent shall be subject to random alcohol/drug screens at the frequency determined by the Program Director, to include arriving at the designated screening site consistent with requirements of the Program Director or screening site. All such screens shall be at the Respondent's sole expense. Failure to appear for screening shall constitute a violation of this order and may result in further disciplinary action.
   d. Respondent's veterinary practice, including any office and surgical practice, will be monitored by the Board. Respondent, if not self employed, shall allow the employing
veterinarian access to Respondent's patient records. Respondent shall provide quarterly reports to the Board through the Chief of Investigations.

3. Respondent shall give a copy of this Agreed Order to the owners of all veterinary practices, veterinary hospital or other entities where Respondent will practice veterinary medicine. Respondent shall ensure that any inquiries which are made by any person or entity through any means to Respondent regarding his Texas veterinary license status are answered by accurate reference to this Agreed Order.

4. Respondent shall comply with all provision of the Act and other statutes regulating the practice of veterinary medicine, as is required by law for veterinarians licensed by the Board.

5. Respondent shall inform the board in writing of any change of his office of mailing address within 10 days of the address change. Failure to provide such information shall constitute the basis for disciplinary action by the Board.

6. Respondent's unilateral withdrawal from treatment or medical care prior to the conclusion of the treatment or medical care may be grounds for further disciplinary action by the Board. Respondent shall immediately notify the Board and the Program Director upon discontinuation of counseling or medical care. When requested by the Board, Respondent shall furnish written reports to the Board regarding any medical condition of Respondent and his compliance with this order.

7. Respondent shall continuously reside in Texas during the period of his probation, unless the Board waives this requirement for good cause shown. The time period of this order shall be extended for any period of time in which Respondent subsequently resides or practices veterinary medicine outside of Texas. If Respondent leaves Texas to live or practice, he shall immediately notify the Board in writing of the dates of his departure from and subsequent return to Texas. Upon Respondent's return to practice in Texas, he shall be required to comply with the terms of this order for the period of time remaining on the order when he left the practice of veterinary medicine in Texas.

8. Respondent shall immediately notify the Board of any circumstances which occur after the date of the Order and constitute a breach of his condition of probation. Respondent shall
cooperate with the Board, its attorneys, investigators, compliance officers and other employees and agents, to verify that respondent has complied and is in compliance with the order.

9. Failure by Respondent to comply with the terms of this Agreed Order or with all other provisions of the Act or the Board Rules, may result in further disciplinary action.

Respondent, James Robert Kemp, DVM, by signing this Agreed Order, agrees to its terms acknowledges his understanding of it and agreement with the notice, findings of fact and conclusions of law herein set for the order 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 of the Board.

Respondent, James Robert Kemp, DVM, 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 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 date of this Agreed Order shall be the date it is adopted by the Texas State Board of Veterinary Medical Examiners.

I, JAMES ROBERT KEMP, DVM, HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.


[Signature]

JAMES ROBERT KEMP, DVM
RESPONDENT
STATE OF TEXAS
COUNTY OF Bexar

BEFORE ME, on this day personally appeared James Robert Kemp, DVM, known to me, who, first being duly sworn, signed the foregoing Agreed Order in my presence.
SIGNED on this 4th day of March, 1997.

Notary Seal

Virginia Carlisle
Notary Public, in and for the State of Texas
7/31/2000

This agreed order has been entered between Dr. James Robert Kemp and Ron Allen, the Executive Director of the Texas State Board of Veterinary Medical Examiners, in concurrence with the Board Secretary. It is presented to the Board as a recommendation only.

RON ALLEN, Executive Director, TSBVME

STATE OF TEXAS
COUNTY OF Travis

BEFORE ME, on this day personally appeared Ron Allen, known to me, who, first being duly sworn, signed in agreement to the foregoing Agreed Order in my presence.
SIGNED on this 11th day of February, 1997.

Notary Seal

Charles A. Adkins
Notary Public, in and for the State of Texas
The foregoing Agreed Order, in Docketed case 1996-24 entered into between Dr. James Kemp and/or legal counsel representing Dr. Kemp, Board Secretary, and the Board’s Executive Staff, and having been presented to the Texas State Board of Veterinary Medical Examiners as a No Contest Plea, was accepted by the Board, and the Board, on the 12th day of June, 1997, ordered that all penalties and conditions as stated therein be complied with the same as if evidence had been heard and Findings and Orders issued.

Executed this the 12th day of June, 1997.

James N. Gomez, D.V.M., President

RECUSED
Michael J. McCulloch, D.V.M., Vice-President
Robert I. Hughes, Jr., D.V.M., Secretary

Howard Head, D.V.M., Member
D. Carter King, D.V.M., Member
Sharon O. Matthews, Member

Jen McFaddin, Member
Joyce G. Schiff, Member
John A. Wood, D.V.M., Member

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June 12, 1557
DOCKETED COMPLAINT NO. 1996-24

TEXAS STATE BOARD OF VETERINARY § TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS § LICENSE NO. 4543
vs. § 1996 RENEWAL CERTIFICATE
JAMES ROBERT KEMP, DVM § NUMBER 4702

COMPLAINT AFFIDAVIT

Before me, the undersigned authority, a Notary Public in and for Texas, on this day personally appeared Peter C. Hartline, who after being duly sworn, did depose and say:

On or about July 24, 1996, Peter C. Hartline, being an employee of the Texas State Board of Veterinary Medical Examiners, did in the course of such employment, make certain investigations into the professional conduct of one James Robert Kemp, D.V.M., 13528 West Highway 80 East, Odessa, Texas, 79765, Veterinary License Number 4543, 1996 Renewal Certificate Number 4702, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas State Board of Veterinary Medical Examiners, I, Peter C. Hartline, do hereby present the following complaint against James Robert Kemp, D.V.M.

I.

On July 17, 1996, the Executive Committee of the State Board of Veterinary Medical Examiners held an emergency meeting under the authority granted by Section 14C, article 8890. The Executive Committee determined that adequate cause existed to temporarily suspend Dr. Kemp's license, due to his continued practice in an impaired state of chemical dependency.

II.

On July 17, 1996, the Executive Committee voted to temporarily suspend, effective immediately, the license of Dr. James Kemp.

III.

Dr. Kemp has self-administered Ketamine hydrochloride (trade name "ketaset"), for its "calming effect". Ketaset is an anesthetic used in the practice of veterinary medicine and is classified as a dangerous drug.

IV.

Dr. Kemp has been observed to be intoxicated while practicing veterinary medicine. Dr. Kemp was observed to be intoxicated while at work on July 6, 1996, by a peer assistance intervention committee.
Dr. Kemp was determined to be chronically or habitually intoxicated, chemically dependent and/or addicted to alcohol and/or dangerous drugs.

Between July 15, and July 17, 1996, two chemical dependency evaluations were conducted indicating that Dr. Kemp had severe chemical dependency. Both evaluations recommended long-term residential treatment. Both evaluations further recommended extended continuing treatment following release from residential treatment.

Dr. Kemp entered COPAC, a residential treatment program in Brandon, Mississippi on or about July 18, 1996.

On July 26, 1996, in accordance with subsection (c), the Enforcement Committee met to determine if disciplinary procedures under the Veterinary Licensing Act should be initiated and if the temporary suspension should be continued or terminated.

On November 15, 1996, Dr. Kemp was discharged from COPAC, as having successfully completed the residential program.

Based on the above, Dr. Kemp has violated Section 14 (a) (2) and 14 (a) (5) of the Veterinary Licensing Act, article 8890.

ARTICLE 8890, SECTION 14

(a) . . . the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a licensee . . . if it finds that a licensee:

(2) is chronically, or habitually intoxicated, has a chemical dependency or is addicted to drugs;

(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with the law;

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 16th day of January 1997.
James Robert Kemp, DVM
Docketed Case No. 1996-24
3

Further, Affiant sayeth not.

[Signature]
Peter C. Hartline, Affiant

SUBSCRIBED and SWORN TO before me by the said Peter C. Hartline this the 16th day of JANUARY, 1997.

[Seal]
MIKE CARROLL
Notary Public
STATE OF TEXAS
My Comm. Exp. 12-21-96

[Signature]
Mike Carroll, Notary Public in and for Texas

The foregoing Complaint is hereby filed and docketed with the Texas State Board of Veterinary Medical Examiners and styled Texas State Board of Veterinary Medical Examiners vs. James Robert Kemp, D.V.M., under Docketed Number 1996-24 this the 23rd day of January 1997.

[Signature]
Michael J. McCulloch, DVM, Board Secretary
Texas State Board of Veterinary Medical Examiners