DOCKETED COMPLAINT NO. 1990-1

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

TEXAS VETERINARY MEDICAL LICENSE NO. 3127

VS.

1989 RENEWAL CERTIFICATE NUMBER 4118

CRAIG A. MCFARLAND, D.V.M.

COMPLAINT AFFIDAVIT FORM

BEFORE ME, the undersigned authority, a Notary Public in and for Texas, on this day personally appeared JOE RIZZO, who after being duly sworn, did depose and say:

I, JOE RIZZO, being an employee of the Texas Board of Veterinary Medical Examiners, did in the course of such employment, make certain investigations into the professional conduct of one CRAIG A. MCFARLAND D.V.M., Bandera Road Animal Hospital, 7075 Bandera Road, San Antonio, Bexar County, Texas, Texas Veterinary License Number 3127, 1989 Renewal Certificate Number 4118, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas Board of Veterinary Medical Examiners, I, JOE RIZZO do hereby present the following complaint against CRAIG A. MCFARLAND, D.V.M., who is hereinafter called Respondent.

I.

On or about June 12, 1987, by Docketed Complaint Number 1987-20, the Texas State Board of Veterinary Medical Examiners ordered that Texas Veterinary License No. 3127, heretofore issued to Respondent by the Texas State Board of Veterinary Medical Examiners be suspended for a period of five (5) years, with four (4) years, nine months being probated.

Provisions of the probation were that Respondent would obtain a minimum of 50 hours annually, (250 total hours) of Continuing Education during the term of the probation. Respondent was further ordered to abide by the Veterinary Practice Act and the Rules of Professional Conduct as duly promulgated by the Board. Further, Respondent was ordered to report quarterly to the Board Offices verifying compliance with this order. Respondent was notified in the Board order that the quarterly reports were due to the Board Offices by the last day of September, December 1987; March, June, September, December 1988; March, June, September, December 1989; March, June, September, December 1990; March, June, September, December 1991; March, June, 1992.

II.

As of August 1, 1989 Respondent failed to provide to the Board Offices, quarterly reports as required by the Board Order for the below listed dates:


As of August 1, 1989 Respondent failed to submit any verification of Continuing Education for 1987-88 or 1988-89 (total of 100 hours) as required by the Board Order. On or about May 18, 1989, Respondent advised Max Blanton, Investigator, Texas State Board of Veterinary
Medical Examiners, that he had not yet completed any of the required Continuing Education.

III.

On or about May 18, 1989, Respondent was visited by Mr. Joe Rizzo, and Mr. Max Blanton, Investigators, Texas State Board of Veterinary Medical Examiners and Ms. Helen K. Kaupang, and Mr. William Hines, Diversion Investigators, Drug Enforcement Administration. The visit concerned Respondent’s ordering, possession, dispensing, prescribing, and records keeping for certain Controlled Substances.

Investigation revealed that, at Respondent’s place of business, Respondent failed to maintain patient records, Controlled Substance records or any other record to reflect the existence of a Veterinary/Client/Patient relationship to support the prescribing of the Controlled Substances, lists of which are incorporated into this complaint as attachments I, II, and III. Respondent had been advised by Board Investigator, Tom Cheshire, on or about May 6, 1987, and again on or about September 8, 1988, by Board Investigator Mike Carroll, that Respondent was required to keep such records. The attachments reflect the following drugs, and quantities which passed through Dr. McFarland’s practice without accountability from 7/3/87 to 4/1/88:

<table>
<thead>
<tr>
<th>ATTACHMENT</th>
<th>QUANTITY</th>
<th>DRUG</th>
<th>SCHEDULE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 (6 pages)</td>
<td>1,190</td>
<td>Fiorinal, aka Butalbital</td>
<td>III</td>
</tr>
<tr>
<td>2 (3 pages)</td>
<td>50</td>
<td>w/codeine</td>
<td></td>
</tr>
<tr>
<td>3 (3 pages)</td>
<td>30</td>
<td>Restoril, aka Temazepam</td>
<td>IV</td>
</tr>
<tr>
<td>TOTAL:</td>
<td>1,270</td>
<td>Fastin, aka Phentermine</td>
<td>IV</td>
</tr>
</tbody>
</table>

IV.

At Respondent’s place of business, Respondent failed to maintain patient records, Controlled Substance records or any other record (required by Statute and Rules in effect from 4/1/88 to present), to reflect the existence of a Veterinary/Client/Patient relationship to support the ordering, possession or dispensing of the Controlled Substances listed on attachments I thru VI which are appended to and incorporated into this complaint. Respondent had previously been advised by Board Investigators that he was required to keep such records. The attachments reflect the following drugs, and quantities which passed through Dr. McFarland’s practice without accountability from 4/1/88 to present:

<table>
<thead>
<tr>
<th>ATTACHMENT</th>
<th>QUANTITY</th>
<th>DRUG</th>
<th>SCHEDULE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 (6 pages)</td>
<td>3,825</td>
<td>Fiorinal, aka Butalbital</td>
<td>III</td>
</tr>
<tr>
<td>2 (3 pages)</td>
<td>1,750</td>
<td>w/codeine</td>
<td></td>
</tr>
<tr>
<td>3 (3 pages)</td>
<td>430</td>
<td>Restoril, aka Temazepam</td>
<td>IV</td>
</tr>
<tr>
<td>4 (1 page)</td>
<td>300</td>
<td>Fastin, aka Phentermine</td>
<td>IV</td>
</tr>
<tr>
<td>5 (1 page)</td>
<td>1,000</td>
<td>Hycoan, aka Tussigon</td>
<td>III</td>
</tr>
<tr>
<td>6 (1 page)</td>
<td>1,200</td>
<td>Lomotil, aka Diphenoxylate</td>
<td>V</td>
</tr>
<tr>
<td>TOTAL:</td>
<td>8,505</td>
<td>Valium, aka Diazepam</td>
<td>IV</td>
</tr>
</tbody>
</table>

V.

By Respondent’s failure to abide by the Board Order referenced in the foregoing paragraphs, to wit, failure to submit all required quarterly reports, and failure to obtain or provide verification of 100 hours of
Continuing Education, Respondent has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine therefore constituting grounds for the Board to take disciplinary action as authorized in Article 7465a, Veterinary Practice Act, Section 14(c), which states in part:

**Article 7465a, Section 14 (c), Veterinary Licensing Act-1981**

"....the Board may revoke or suspend a license, place a person whose license has been suspended on probation or reprimand a licensee....if it finds that an applicant or licensee:

(c) has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine;

VI.

By failing to maintain patient records, controlled substance records, or establishing a veterinary/client/patient relationship to justify ordering, prescribing, dispensing, or possessing the controlled substances listed in attachments I, II, and III which are incorporated into this document for all intents and purposes, Respondent has violated the Rules of Professional Conduct, Rules 27, 32, and 33, (as effective prior to 4/1/88 and identified on attachments I, II, and III with asterisks) which state:

**RULE 27 CONTROLLED SUBSTANCES: PRESCRIBING OR DISPENSING**

It is unprofessional conduct for a licensed veterinarian to prescribe or dispense, deliver or order delivered any controlled substance without first having established a patient/veterinarian relationship by having personally examined the individual animal, herd, or a representative segment or a consignment lot thereof and determined that such controlled substance is therapeutically indicated following said examination.

**RULE 32 PATIENT RECORD KEEPING**

Individual records will include, but are not limited to, identification of patient, patient history, including immunization records, dates of visits, x-rays, names and dosages of medications administered and/or dispensed, and other details as necessary to substantiate diagnosis and treatment. Patient records shall be maintained for a period of three years and are the responsibility and property of the employing veterinarian.

**RULE 33 CONTROLLED SUBSTANCES**

It shall be unprofessional and a violation of the Rules of Professional Conduct for the veterinary profession for a veterinarian to prescribe, provide, obtain, order, administer, possess, dispense, give or deliver to or for any person, narcotic drugs, dangerous drugs, or any controlled substances that are not necessary or required for the care of animals, or where the use or possession of such drugs would promote addiction thereto. For purposes of the rule the term Narcotic Drugs, Dangerous Drugs, and Controlled Substances shall mean those which are defined and recognized as such by any law of
the State of Texas or of the United States.

The Texas State Board of Veterinary Medical Examiners has authority to take disciplinary action against a veterinarian’s license under the Texas Veterinary Licensing Act, Article 7465a, V.A.C.S., Sections 14 (c) and (e) which state in part:

**Article 7465a, Sec.14(c) and (e), Veterinary Licensing Act-1981**

"......the Board may revoke or suspend a license, place a person whose license has been suspended on probation or reprimand a licensee....if it finds that an applicant or licensee:

(c) has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine;

(e) 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;"

VII.

By failing to maintain patient records, controlled substance records, or establishing a veterinary/client/patient relationship to justify ordering, prescribing, dispensing, or possessing the controlled substances listed in attachments I thru VI to this document, Respondent has violated the Rules of Professional Conduct, Rule 573.41, 573.50, and 573.52 (effective 4/1/88) which state:

**573.41 USE OF PRESCRIPTION DRUGS**

(a.) It is unprofessional conduct for a licensed veterinarian to prescribe or dispense, deliver, or order delivered any prescription drug without first having established a veterinary/client/patient relationship by having personally examined the individual animal, herd, or a representative segment or a consignment lot thereof and determined that such prescription drug is therapeutically indicated following said examination. Prescription drugs include all controlled substances in Schedules I thru V and Legend Drugs which bear the federal legends, recognized as such by any law of the State of Texas or of the United States.

(b.) It shall be unprofessional and a violation of the Rules of Professional Conduct for a licensed veterinarian to prescribe, provide, obtain, order, administer, possess, dispense, give or deliver to or for any person prescription drugs, that are not necessary or required for the medical care of animals, or where the use or possession of such drugs would promote addiction thereto. Prescription drugs are defined in subsection (a.) of this section.

**573.50 CONTROLLED SUBSTANCES RECORDS KEEPING FOR DRUGS ON HAND**

Texas veterinarians shall maintain at their place of business records of all scheduled drugs listed in the Texas Controlled Substances Act, in their possession. These records shall be maintained for a minimum of five (5) years. The form for keeping records of those drugs shall contain the following
information in addition to the name of the drug:

1. Date of acquisition,
2. Quantity purchased,
3. Date administered, dispensed, or prescribed,
4. Quantity administered, dispensed, or prescribed,
5. Name of client and patient receiving the drug(s),
6. Diagnosis and

573.52 PATIENT RECORD KEEPING
(a.) Individual records will be maintained at the place of business and include, but are not limited to, identification of patient, patient history, including immunization records, dates of visits, x-rays, name and dosages of medications administered and/or dispensed, and other details as necessary to substantiate diagnosis and treatment.

(b.) Patient records shall be current and maintained on the business premises for a period of three years and are the responsibility and property of the employing veterinarian.

(c.) When appropriate, licensees may substitute the words "herd", "flock" or other collective term in place of the word "patient" in subsections (a) and (b) of this section. Records to be maintained on these animals may be kept in a daily log, or the billing records, provided that the treatment information that is entered is adequate to substantiate the identification of these animals and the medical care provided. In no case does this eliminate the requirement to maintain drug records as specified by state and federal law and Board rules.

The Texas State Board of Veterinary Medical Examiners has authority to take disciplinary action against a veterinarian's license under the Texas Veterinary Licensing Act, Article 7465a, V.A.C.S., Sections 14(a)(3) and (5) which state in part:

Article 7465a, Section 14(a)(3) and (5) Veterinary Licensing Act-
"...the Board may revoke or suspend a license, place a person whose license has been suspended on probation or reprimand a licensee.....if it finds that a applicant or licensee:

(3) has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine;

(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 law;

VIII.

The Texas State Board of Veterinary Medical Examiners has authority to take disciplinary action against CRAIG A. McFARLAND'S veterinary license under the Texas Veterinary Licensing Act, Article 7465a, V.A.C.S., Sections 7(b) and 14(a)(5), and (12) which state in part:
Article 7465a, Section 7(b), Veterinary Licensing Act
The Board shall require its licensees to maintain a record-keeping system for controlled substances as prescribed by the Texas Controlled Substances Act, (Article 4476-15, Vernon's Texas Civil Statutes). The records are subject to review by law enforcement agencies and by representatives of the Board. A failure to keep such records shall be grounds for revoking, cancelling, suspending, or probating the license of any practitioner of veterinary medicine.

Art. 7465a, Sec. 14(a)(5) and (12), Veterinary Licensing Act
"......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 an applicant or licensee:

(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;

(12) has ordered prescription drugs or controlled substances for the treatment of an animal without first establishing a valid veterinarian-patient-client relationship;"

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the ___ day of September, 1989.

Further, Affiant sayeth not.

JOE RIZZO, Affiant

SUBSCRIBED and SWORN TO before me by the said JOE RIZZO, this the ___ day of September, 1989.

JUDY C. SMITH
Notary Public in and for Texas

JUDY C. SMITH
Notary Public, State of Texas
My Commission Expires SEP. 13, 1993

My Commission Expires: September 13, 1993

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. Craig A. McFarland, D.V.M. under Docketed Number 1990-1, this the ___ day of September, 1989.

ROBERT D. LEWIS, D.V.M., Secretary
TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS