IN THE MATTER OF THE LICENSE OF

ROBERT RICCITELLO, DVM

AGREED ORDER

On this the **5** day of **April**, 1997, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board"), the matter of the license of ROBERT RICCITELLO, DVM, ("Respondent" or "Dr. Riccitello"). Pursuant to the Veterinary Licensing Act ("Act") § 18F and Board Rules of Disciplinary Procedure 575.27, on May 30, 1997, Respondent appeared in person, at an Informal Conference in response to a letter of invitation from the Board. The Board was represented at the Informal Conference by the Enforcement Committee.

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 Agreed Order as set forth below:

Findings of Fact

1. Robert Riccitello, DVM, is a veterinarian licensed by the Board to practice veterinary medicine in the state of Texas under license number 7396, 1996 renewal certificate number 2074+P. Respondent is not subject to prior disciplinary action by the Board.
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. On January 10, 1996, the Sam Houston Race Park Board of Stewards conducted a hearing at Sam Houston Race Park, Houston, Texas, to determine if Randy J. Faulkner, a trainer whose horse tested positive for Detomidine, a non-approved drug for racing, was in violation of track rules. Detomidine cannot be legally administered to a racing horse within a twenty-four hour period of a race. At the hearing, Respondent testified under oath about his treatment of the horse that tested positive.
4. Respondent testified he reuses unsterile syringes. He stated that the Detomidine could have been from residue in a syringe from a horse he had previously treated which was transferred to Mr. Faulkner's horse in an injection of Lassix. Respondent returns medication from the unsterile syringes to the original container from which it was taken.
5. Respondent does not always properly identify horses he is to treat and sometimes treats the wrong horse. He does not always place the required information in patient records, and his record keeping format is inadequate.
6. On July 2, 1996, a hearing was conducted by the Retama Park Board of Stewards to determine if any track rules were violated by respondent. The Board of Stewards found respondent had violated the Rules Governing Pari-Mutuel Racing and suspended him from the racetrack for forty-five days, effective as of July 5, 1996.
7. On or about July 3, 1996, a vehicle search was conducted of respondent's truck at Retama Park, San Antonio, Texas. During the search, a card of Ritilin tablets was discovered. Ritilin is a Schedule II Controlled Substance. Veterinarians are prohibited from bringing any controlled substances on the "back side" of a race track without prior approval of the track Veterinarian. Respondent did not have permission to possess the Ritilin. The Ritilin was not in a properly labeled container.
8. By failing to obtain written approval from the Chief Veterinarian of the Texas Racing Commission to possess the Ritilin on the track respondent has violated Texas Racing Commission Rule Sec. 319.14 (a).
9. By possessing Ritilin in a container not properly labeled, respondent was illegally in possession of a controlled substance.
10. As a result of the Ritilin being found in respondent's truck by Dr. Connie Couch, Chief Veterinarian for the Texas Racing Commission, respondent was expelled from Texas Racing Commission Facilities.

Conclusions of Law

1. Respondent is required to comply with the provision of the Act and Board Rules.
2. Act § 14 (a) authorizes the Board to revoke or suspend a license, impose a civil penalty, place a licensee on probation, or reprimand a licensee based upon findings of non-compliance with the Act or Board Rules.
3. Based on Findings of Fact 4 and 5, Respondent has violated Rule 573.22 by failing to use sterile syringes, returning non-sterile medications to original containers and by not properly identifying horses to be treated.

4. Based on Finding of Fact 5, Respondent has violated Rule 573.52 by failing to properly identify the horses he treated and not including the necessary information in his patient records.

5. Based on Finding of Fact 6 through 10, Respondent has violated Rule 573.04 by violating rules pertaining to Pari-Mutuel Racing in the State of Texas.

6. Based on Findings of Fact 4 through 10, Respondent has violated Act § 14 (a) (5) 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.

7. Based on any one of Conclusion of Law 3 through 6, Respondent is subject to disciplinary action by the Board under Act 14(a).

Based on the above findings of fact and conclusions of law, the Board ORDERS that Dr. Riccitello'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 2 years beginning the date this Agreed Order is approved by the Board.

2. The last eighteen months of the suspension are probated, subject to the following terms and conditions:
   a. Respondent must take and pass the State Board Jurisprudence Examination within forty-five (45) days of Board approval of this Agreed Order.

3. 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.

4. 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, Robert Riccitello, DVM, by signing this Agreed Order, agrees to its terms acknowledges his understanding of it and the notice, findings of fact and conclusions of law set forth in the Agreed Order and agrees 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, Robert Riccitello, 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, ROBERT RICCITELLO, 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.

DATED: 04/17/98, 1998

ROBERT RICCITELLO, DVM
RESPONDENT

STATE OF TEXAS
COUNTY OF HAYS

BEFORE ME, on this day personally appeared Robert Riccitello, DVM, known to me, who, first being duly sworn, signed the foregoing Agreed Order in my presence.

SIGNED on this 17 day of APRIL, 1997.

DIANE SCHMELTEKOPF
Notary Public, in and for the State of Texas

[Notary Seal]
This agreed order has been entered between Dr. Robert Riccitello 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 22nd day of April, 1998

JUDY C. SMITH
Notary Public
STATE OF TEXAS
My Comm. Exp. 09-16-2001

Notary Seal

Notary Public, in and for the State of Texas

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this 22nd day of April, 1998.

James N. Gomez, D.V.M., President
DOCKETED COMPLAINT NO. 1997-17

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS § TEXAS VETERINARY MEDICAL LICENSE NO. 7396
vs. § 1996 RENEWAL CERTIFICATE NUMBER 2074+P
ROBERT RICCITELLO, DVM § NUMBER 2074+P

COMPLAINT AFFIDAVIT

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

I, Mike Carroll, an employee of the Texas State Board of Veterinary Medical Examiners ("Board"), investigated the professional conduct of one Robert Riccitello, D.V.M., 1502 Chilton Lane, Katy, Texas, 77450, Veterinary License Number 7396, 1996 Renewal Certificate Number 2074+P, a practitioner of veterinary medicine in the State of Texas, on or about August 7, 1996.

I, Mike Carroll, on behalf of the Board, present the following complaint against Robert Riccitello, D.V.M., based on alleged violations of the Veterinary Licensing Act, Tex. Rev. Civ. Stat. art. 8890 ("Act"), and the Board's Rules of Professional Conduct ("Board Rules"):

I.
On January 10, 1996, the Sam Houston Race Park Board of Stewards conducted a hearing at Sam Houston Race Park, Houston, Texas, to determine if Randy J. Faulkner, a trainer whose horse tested positive for Detomidine, a non-approved drug for racing, was in violation of track rules. Detomidine cannot be legally administered to a racing horse within a twenty-four hour period of a race. At the hearing, Robert Riccitello, DVM testified under oath about his treatment of the horse that tested positive.

II.
Dr. Riccitello testified he reuses unsterile syringes. He stated that the Detomidine could have been from residue in a syringe from a horse he had previously treated which was transferred to Mr. Faulkner's horse in an injection of Lassix. Dr. Riccitello returns non-sterile medication from the syringes to the original container from which it was taken.

III.
Dr. Riccitello does not always properly identify horses he is to treat and sometimes treats the wrong horse. He does not always place the required information in patient records, and his record keeping format is inadequate.

IV.
On July 2, 1996, a hearing was conducted by the Retama Park Board of Stewards to determine if any track rules were violated by Dr. Riccitello. The Board of Stewards found Dr. Riccitello had violated the Rules Governing Pari-Mutuel Racing and suspended him from the racetrack for forty-five days, effective as of July 5, 1996.
V.

On or about July 3, 1996, a vehicle search was conducted of Dr. Riccitello’s truck at Ratama Park, San Antonio, Texas. During the search, a card of Ritilin tablets was discovered. Ritilin is a Schedule II Controlled Substance. Veterinarians are prohibited from bringing any controlled substances on the “back side” of a race track without prior approval of the track veterinarian. Dr. Riccitello did not have permission to possess the Ritilin. The Ritilin was not in a properly labeled container.

VI.

By failing to obtain written approval from the Chief Veterinarian of the Texas Racing Commission to possess the Ritilin on the track, Dr. Riccitello has violated Texas Racing Commission Rule Sec. 319.14 (a).

VII.

By possessing Ritilin in a container not properly labeled, Dr. Riccitello was illegally in possession of a controlled substance.

VIII.

As a result of the Ritilin being found in Dr. Riccitello’s truck by Dr. Connie Couch, Chief Veterinarian for the Texas Racing Commission, Dr. Riccitello was expelled from Texas Racing Commission Facilities.

IX.

Based on the above, it is alleged Respondent has violated Rule 573.22 - Professional Standard of Humane Treatment, Rule 573.52 - Patient Record Keeping, and Rule 573.04 - Adherence to the Law of the Rules of Professional Conduct.

X.

Based on the above, it is alleged Respondent has violated Act § 14 (a) (5).

Act § 14 (a) authorizes the Board to “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:

(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 18th day of August 1997.

Further, Affiant sayeth not.

Mike Carroll, Affiant

SUBSCRIBED and SWORN TO before me by the said Mike Carroll this the 18th day of August, 1997.

Charles A. Adkins
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. Robert Riccitello, D.V.M. under Docketed Number 1997-17 this the 21st day of August 1997.

Robert I. Hughes, Jr., D.V.M., Board Secretary
Texas State Board of Veterinary Medical Examiners