

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS
1946 South IH 35, Box 113
Austin, TX 78704
(512) 447-1183

DOCKET NUMBER 1989-3
JOHN F. KERN, D.V.M.
LICENSE NUMBER: 4144

NEGOTIATED SETTLEMENT

This negotiated settlement has been entered by agreement between Dr. Kern, his attorney Mr. Ralph Kinard, and the Texas State Board of Veterinary Medical Examiners' staff in concurrence with the Board Secretary. It is presented to the Board as a recommendation only. If the Board elects to reject or amend this Negotiated Settlement the defendant, Dr. Kern, will be granted a continuance at his option.

Dr. Kern does not contest the allegations set forth in the Complaint and agrees that, accordingly, the Board may treat the allegations of fact and law as true, which findings shall have the same force and effect as if evidence and argument were presented in support of the allegations, and based thereon, the Board found the allegations to be true. Respondent understands and intends that by so stating, he is not admitting the truth of the allegations, but is merely agreeing that the Board may enter an Order treating the allegations as true without the necessity of receiving evidence in support thereof.

SUMMARY OF CHARGES:

RK 6-15-89
Rx Drug JK
Ordered a ~~Controlled Substances~~, Torbutrol, for his own self-abuse.

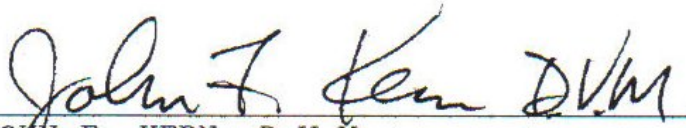
RECOMMENDED DISCIPLINARY ACTION:

1. Five year suspension, all probated.
2. Modify drug license to allow use of NO RESTRICTIONS IMPOSED BY BOARD.
(To be set by Board)
3. Enter Chemical Abuse Assistance Program. (enrolled)
4. Agrees to intake evaluation as determined by the Program Counselors. (completed)
5. Agrees to inpatient treatment and care as necessary and required.
6. Agrees to participate in an after care program as determined by the Program counselors.
7. Agrees to participate in "no-notice" drug screening as deemed necessary by Program Counselors, AND/OR BOARD OF VETERINARY MEDICAL EXAMINERS.

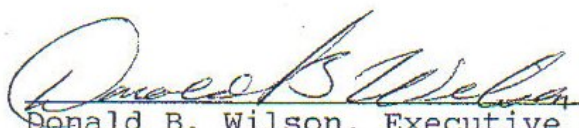
CONDITIONS:

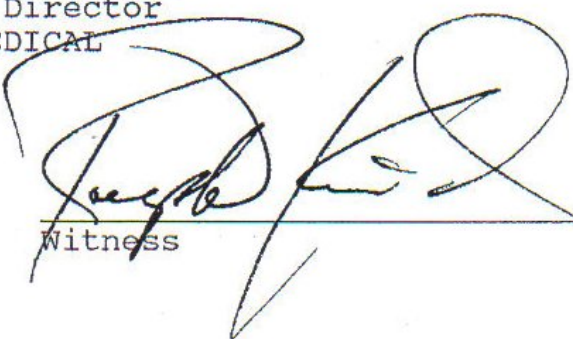
1. Submit quarterly reports certifying continued compliance with the Board Orders, INCLUDING PURCHASE OF SCHEDULED DRUGS, RECORDS, INVOICES, ETC.
2. Abide by the laws and Rules of the State of Texas as they pertain to the Practice of veterinary medicine.

3. Agrees to execute a medical release for treatment and counseling evaluation and information relating to dependency.



JOHN F. KERN, D.V.M.

 6/5/89
Donald B. Wilson, Executive Director
TEXAS BOARD OF VETERINARY MEDICAL
EXAMINERS



Witness

The foregoing Agreed Settlement, entered into between Dr. John F. Kern, the Board Secretary, Dr. Robert D. Lewis and Board 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 June 15, 1989 ORDERED that all penalties and conditions as stated therein be complied with the same as if the Board had heard evidence and testimony and as a result of such hearing had issued Findings and Orders.

Executed this the 15, day of June, 1989.

Jim F. Humphrey
Jim F. Humphrey, President

Date

Fred K. Soifer, D.V.M., Vice-President

Date

Robert D. Lewis
Robert D. Lewis, D.V.M., Secretary

6-15-1989
Date

W. L. "Dub" Anderson, D.V.M.
W. L. "Dub" Anderson, D.V.M., Member

Date

Larry M. Dubuisson, D.V.M., Member

6/15/89
Date

Olivia R. Eudaly
Olivia R. Eudaly, Member

6/15/89
Date

Mike Levi
Mike Levi, Member

Date

Mary E. Mainster, DVM
Mary E. Mainster, D.V.M., Member

6-15-89
Date

Edward S. Murray, D.V.M., Member

15 JUN 89
Date

DOCKETED COMPLAINT NO. 1989-3

TEXAS BOARD OF VETERINARY	X	TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS	X	LICENSE NO. 2256
vs.	X	1988 RENEWAL CERTIFICATE
JOHN F. KERN, D.V.M.	X	NUMBER 4144

COMPLAINT AFFIDAVIT FORM

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

"I, J. J. 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 DR. JOHN F. KERN, Animal Birth Control, Inc., 6190 Highway 6 North, Houston, Harris County, Texas, Texas Veterinary License Number 2256, 1988 Renewal Certificate Number 4144, a practitioner of veterinary medicine in the State of Texas.

As an employee of the Texas Board of Veterinary Medical Examiners, I, J. J. RIZZO, do hereby present the following complaint against JOHN F. KERN, D.V.M., who is hereinafter called Respondent.

I.

JOHN F. KERN, D.V.M. ordered, as reflected below, 2,100 tablets of Torbutrol, aka Butarphanol Tartrate, a prescription drug:

<u>INVOICE NO.</u>	<u>DATE SHIPPED</u>	<u>AMOUNT</u>	<u>STRENGTH</u>
0115449	8/05/88	100 Tabs	5 mg.
0116446	8/11/88	100 Tabs	5 mg.
0116446	8/11/88	100 Tabs	10 mg.
0118414	8/24/88	100 Tabs	5 mg.
0118414	8/24/88	100 Tabs	10 mg.
0120092	9/02/88	100 Tabs	10 mg.
0120716	9/08/88	100 Tabs	10 mg.
0121587	9/14/88	100 Tabs	10 mg.
0122424	9/20/88	100 Tabs	10 mg.
0123316	9/27/88	100 Tabs	10 mg.
0123464	9/28/88	100 Tabs	5 mg.
0124861	10/06/88	100 Tabs	10 mg.
0126156	10/13/88	100 Tabs	10 mg.
0127247	10/20/88	100 Tabs	10 mg.
0127853	10/25/88	100 Tabs	10 mg.
0129108	11/01/88	100 Tabs	10 mg.
0129108	11/01/88	100 Tabs	5 mg.
0130563	11/10/88	100 Tabs	10 mg.
0131351	11/15/88	100 Tabs	10 mg.
0133537	11/29/88	100 Tabs	10 mg.
0133537	11/29/88	100 Tabs	5 mg.

TOTAL 2,100 Tabs

II.

On Monday, January 16, 1989, Respondent met with Mr. Donald B. Wilson, Executive Director of the Texas Board of Veterinary Medical Examiners where it was determined that Respondent ordered the drugs listed in Paragraph I for his own self-abuse and not where not necessary or required for the medical care of animals.

III.

By ordering the drugs in Paragraph I for self abuse and where not necessary or required for the medical care of animals, JOHN F. KERN, D.V.M. has violated Rule 573.41 of the Rules of Professional Conduct which states:

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 rule.

IV.

The Texas Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Kern's veterinary license under the Texas Veterinary Licensing Act, Article 7465a, V.A.T.C.S., Section 14(a) (2) and (5) which state:

Article 7465a, Section 14(a) (2) and (5)

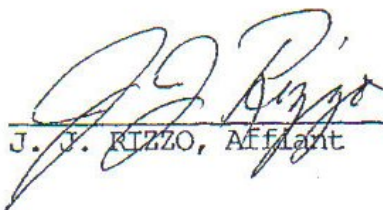
" . . . the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a licensee, . . . if it finds that an applicant or licensee:

(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 law."

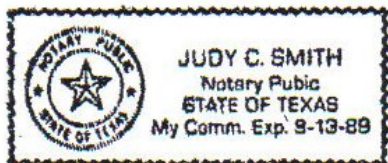
The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 31st day of January, 1989.

Further, Affiant sayeth not.



J. J. RIZZO, Affiant

SUBSCRIBED and SWORN TO before me by the said J. J. RIZZO, this the 31st
day of January, 1989.



Judy C. Smith
JUDY C. SMITH
Notary Public in and for Texas

My Commission Expires: September 14, 1989.

The foregoing Complaint is hereby filed and docketed with the Texas Board
of Veterinary Medical Examiners and styled Texas Board of Veterinary Medical Examiners
vs. JOHN F. KERN, D.V.M. under Docket Number 1989-3, this the 31st day of January, 1989.

Robert D. Lewis
Robert D. Lewis, D.V.M., Secretary
Texas Board of Veterinary Medical Examiners