

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS  
1946 South IH 35, Box 113  
Austin, TX 78704

DOCKET NUMBER 1988-16  
JAMES THOMAS KOSUB, D.V.M.  
LICENSE NUMBER: 3946

NEGOTIATED SETTLEMENT

This negotiated settlement has been entered by agreement between Dr. Kosub, 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. Kosub, will be granted a continuance at his/her option.

Dr. Kosub 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/she 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:

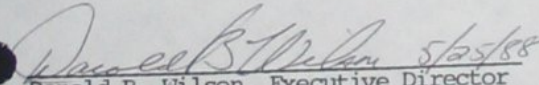
Prescribing Scheduled Drugs without establishing a patient/veterinary/client relationship, without maintaining patient records, and prescribing Scheduled Drugs for nontherapeutic purposes.

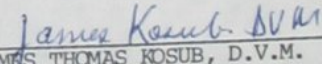
RECOMMENDED DISCIPLINARY ACTION:

1. Three (3) years suspension, all probated but thirty (30) days, effective immediately. The thirty (30) day suspension is to commence on July 1, 1988.
2. Obtain fifteen (15) hours of Continuing Education each year of the probationary period, for a total of forty-five (45) hours.
3. Surrender Schedule II and IIN DEA and DPS Drug Certificates to be reinstated at the discretion of the Board.
4. Pay a Civil Penalty in the sum of \$2,500.00.

CONDITIONS:

1. Submit quarterly reports certifying continued compliance with the Orders during the probationary period.
2. Abide by the laws and Rules of the State of Texas as they pertain to the practice of veterinary medicine.
3. Take and pass the State Board Jurisprudence Examination.

  
Donald B. Wilson, Executive Director  
TEXAS BOARD OF VETERINARY MEDICAL  
EXAMINERS

  
JAMES THOMAS KOSUB, D.V.M.

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Witness

The foregoing Agreed Settlement, entered into between Dr. James T. Kosub, the Board Secretary, Dr. Fred Soifer 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 3, 1988 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, Conclusions and Orders.

W. L. "DUB" ANDERSON, D.V.M., PRESIDENT  
W. L. "DUB" ANDERSON, D.V.M., PRESIDENT

June 3, 1988  
Date

JIM F. HUMPHREY, Vice-President  
JIM F. HUMPHREY, Vice-President

"  
Date

FRED K. SOIFER, D.V.M., Secretary  
FRED K. SOIFER, D.V.M., Secretary

"  
Date

LARRY M. DUBUISSON, D.V.M., Member  
LARRY M. DUBUISSON, D.V.M., Member

"  
Date

(Absent)  
OLIVIA R. EUDALY, Member

"  
Date

MIKE LEVI, Member  
MIKE LEVI, Member

"  
Date

ROBERT D. LEWIS, D.V.M., Member  
ROBERT D. LEWIS, D.V.M., Member

"  
Date

MARY E. MAINSTER, D.V.M., Member  
MARY E. MAINSTER, D.V.M., Member

"  
Date

EDWARD S. MURRAY, D.V.M., Member  
EDWARD S. MURRAY, D.V.M., Member

"  
Date

DOCKETED COMPLAINT NO. 1988-16

TEXAS STATE BOARD OF VETERINARY		TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS		LICENSE NO. 3946
vs.		1987 RENEWAL CERTIFICATE
JAMES THOMAS KOSUB, D.V.M.		NUMBER 0913

COMPLAINT AFFIDAVIT FORM

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

"I, THOMAS CHESHIRE being an employee of the Texas Board of Veterinary Medical Examiners, did in the course of such employment, make certain investigations on or about July 8, 1987, into the professional conduct of one JAMES THOMAS KOSUB, D.V.M., LaVernia, Wilson County, Texas, Texas Veterinary License Number 3946, 1987 Renewal Certificate Number 0913, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas Board of Veterinary Medical Examiners, I, THOMAS CHESHIRE, do hereby present the following complaint against JAMES THOMAS KOSUB, D.V.M., who is hereinafter called Respondent.

I.

The Repondent has failed to maintain, at his place of business, adequate patient records for Triplicate Prescriptions written for 1,540 Ritalin tablets, aka Methylphenidate Hydrochloride, a Schedule II drug, as listed below:

<u>QTY</u>	<u>STRENGTH</u>	<u>DATE ORDERED</u>	<u>NAME</u>	<u>PRESCRIPTION NO.</u>
100 tabs	20 mg.	1/7/83	Roger Fagan	823351804300
100 tabs	20 mg.	1/7/83	L. C. Robbins, Jr.	823351804301
40 tabs	10 mg.	4/19/84	Roger Fagan	823351804315
100 tabs	20 mg.	5/11/84	Roger Fagan	823351804316
100 tabs	20 mg.	5/11/84	L. C. Robbins, Jr.	823351804317
100 tabs	20 mg.	7/26/84	Roger Fagan	823351804318
100 tabs	20 mg.	11/30/84	L. C. Robbins, Jr.	823351804321
100 tabs	20 mg.	3/19/85	L. C. Robbins, Jr.	823351804327
100 tabs	20 mg.	5/17/85	Roger Fagan	823351804328
100 tabs	20 mg.	10/2/85	L. C. Robbins, Jr.	823351804331
100 tabs	20 mg.	1/16/86	James C. Marical	823351804335
100 tabs	20 mg.	5/6/86	James C. Marical	823351804336
100 tabs	20 mg.	6/7/86	Roger Fagan	823351804337
100 tabs	20 mg.	1/16/87	L. C. Robbins, Jr.	823351804341
100 tabs	20 mg.	1/29/87	James C. Marical	823351804342
100 tabs	20 mg.	6/4/87	James C. Marical	823351804345

II.

The Repondent has failed to maintain, at his place of business, adequate patient records for Triplicate Prescriptions written for 310 ml. NUMORPHAN, aka Oxymorphone, a Schedule II drug, as listed below:

<u>ITEM</u>	<u>QTY</u>	<u>STRENGTH</u>	<u>DATE ORDERED</u>	<u>NAME</u>	<u>PRESCRIPTION NO.</u>
1.	30 ml	1.5 mg.	6/29/83	Roger Fagan	823351804303
2.	30 ml	1.5 mg.	6/29/83	L. C. Robbins, Jr.	823351804304
3.	10 ml.	1.5 mg.	8/3/83	Roger Fagan	823351804305
4.	20 ml.	1.5 mg.	11/18/83	Roger Fagan	823351804310
5.	30 ml.	1.5 mg.	11/25/83	Roger Fagan	823351804312
6.	20 ml.	1.5 mg.	3/8/85	L. C. Robbins, Jr.	823351804326
7.	30 ml.	1.5 mg.	9/13/85	James C. Marical	823351804320
8.	30 ml.	1.5 mg.	10/2/85	L. C. Robbins, Jr.	823351804330
9.	30 ml.	1.6 mg.	11/15/85	James C. Marical	823351804332
10.	10 ml.	1.5 mg.	5/9/86	B. D. Hanson	823351804338
11.	20 ml.	1.5 mg.	7/25/86	L. C. Robbins, Jr.	823351804339
12.	20 ml.	1.5 mg.	9/12/86	James C. Marical	823351804340
13.	10 ml.	1.5 mg.	3/14/87	B. D. Hanson	823351804343
14.	20 ml.	1.5 mg.	3/27/87	James C. Marical	823351804344

III.

The Repondent has failed to maintain, at his place of business, adequate patient records for Triplicate Prescriptions written for 142 ml. PANTOPAN aka Opium Alkaloids, a Schedule II drug, as listed below:

<u>QTY</u>	<u>STRENGTH</u>	<u>DATE ORDERED</u>	<u>NAME</u>	<u>PRESCRIPTION NO.</u>
30 ml.	20 mg.	6/22/83	L. C. Robbins, Jr.	823351804302
30 ml.	20 mg.	11/18/83	L. C. Robbins, Jr.	823351804311
21 ml.	20 mg.	8/10/84	Roger Fagan	823351804319
31 ml.	20 mg.	10/8/84	Roger Fagan	823351804320
30 ml.	20 mg.	12/7/84	L. C. Robbins, Jr.	823351804322

IV.

Respondent prescribed the RITALIN listed in Paragraph I, the PANTOPAN listed in Paragraph III and Items 1 through 6 and Item 8 of the NUMORPHAN listed in Paragraph II for training purposes as indicated on Triplicate Prescriptions.

V.

The Respondent could not produce evidence that he had examined the patients before prescribing Ritalin, Numorphan or Pantopan listed in this Complaint.

VI.

Prescribing Schedule II drugs as outlined in this complaint without maintaining patient records constitutes a violation of Rule 32 of the Rules of Professional Conduct which states:

Rule 32

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 (3) years and are the responsibility and property of the employing veterinarian.

VII.

Prescribing Ritalin, Numorphan and Pantopan for training purposes as outlined in this complaint constitutes prescribing drugs for medically unsound reasons and, therefore, constitutes a violation of Rule 33 of the Rules of Professional Conduct relating to the practice of veterinary medicine in the State of Texas that states:

Rule 33

It shall be unprofessional and a violation of the Rules of Professional Conduct for the veterinary profession or 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 of 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.

VIII.

Prescribing Ritalin, Numorphan and Pantopan without first examining the patients as described in this complaint constitutes a violation of Rule 27 of the Rules of Professional Conduct relating to the Practice which states:

Rule 27

It is unprofessional conduct for a licensed veterinarian to prescribe or dispense, deliver or order delivered any controlled substances without first having established a patient/veterinarian relationship by having personally examined the individual animals, herd, or a representative segment or a

consignment lot thereof and determined that such controlled substances is therapeutically indicated following said examination.

IX.

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

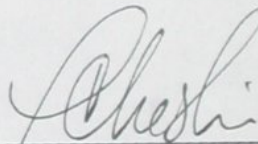
Article 7465a, Section 14(e), Veterinary Licensing Act

" . . . 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 an applicant or licensee:

(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."

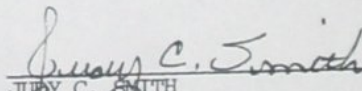
The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 11th day of March, 1988.

Further, Affiant sayeth not.



THOMAS CHESHIRE, Affiant

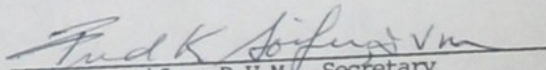
SUBSCRIBED and SWORN TO before me by the said THOMAS CHESHIRE, this the 11th day of March, 1988.



JUDY C. SMITH  
Notary Public in and for Texas

My Commission Expires: September 13, 1989.

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 THOMAS KOSUB, D.V.M., under Docket Number 1988-16, this the 14th day of March, 1988.



Fred K. Soifer, D.V.M., Secretary  
Texas State Board of Veterinary Medical Examiners