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January 29, 2003

Via Hand Delivery

Michael Crowell, Esq.
 Tharrington Smith, LLP
 209 Fayetteville St. Mall
 Raleigh, NC 27602-1151

Re: North Carolina Veterinary Medical Board / Kevin Monce, D.V.M.

Dear Michael:

I write on behalf of the North Carolina Veterinary Medical Board's Committee on Investigations No. 1. This letter is to discuss a settlement proposal, and is not an admission, and is not to be used for any other purpose.

The Committee met January 21, discussed all pending matters in the case, and authorized me to make the following settlement proposal, which, if accepted, would take the form of a Consent Order. The Consent Order proposal must be presented to and approved by the full Veterinary Medical Board, and the approval and entry of this Order would resolve the two complaints consolidated for hearing at the Office of Administrative Hearings, OAH 02 VMB 1712:

1. The Consent Order would set forth facts of violation substantially as summarized in the Notice of Hearing regarding complaint no. 00048-2-1. Conclusions of Law would be made for the administrative rule and statutory violations as set forth therein.
2. The Consent Order would not include findings or conclusions of violations under complaint no. 00006-1-1. The Consent Order is in the nature of a plea bargain arrangement where Dr. Monce would consent to the findings in complaint no. 00048-2-1 and accept the discipline imposed thereon, and the Board would, in effect, take a voluntary dismissal, by way of analogy, of the other complaint.
3. Contemporaneously with the acceptance and entry of this Consent Order by the full Veterinary Medical Board, the Board would take a dismissal of OAH file no. 02 VMB 1712.

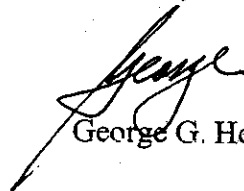
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4. The disciplinary sanctions in the Consent Order would be generally as follows. The Order would cite an active suspension of 30 days, which suspension would be stayed for a probation term of two years upon the usual terms and conditions, including that Dr. Monce would not violate the Veterinary Practice Act or Board rules. The Consent Order would recite that there would be no loss of license, and the probationary period would begin immediately under the terms and conditions set forth. A special condition would be that Dr. Monce would have to maintain compliance with the name approval, minimum sanitary inspection, and other provisions of the Act and rules that were found to have been violated. Another condition would be that he would pay to the Board a \$5,000.00 civil monetary penalty. This sum is consistent with previous cases, and of course is transmitted to the State and not retained by the Board. The sum would be required to be paid to the Board within 30 days of the entry of the Order. Dr. Monce would not be required to reimburse the Board its costs that are usually recovered pursuant to 21 NCAC 66.0601(1) as part of the Consent Order.

The Committee asks that Dr. Monce respond to this proposal within the next few days. The Committee is optimistic that the matter can be resolved, but if Dr. Monce chooses to allow the matter to go forward, the Committee believes it has exhausted its good faith efforts toward resolution. At hearing I will seek to recover, as authorized, all of the Board costs in this matter relating to Dr. Monce, the amount of which is not insubstantial. The resolution of the case of course would avoid his exposure to such an assessment.

Please call at your earliest convenience after you have conferred with Dr. Monce. Thank you.

Sincerely,



George G. Hearn

GGH:jh

cc: Committee on Investigations No. 1
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