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**NORTH CAROLINA VETERINARY MEDICAL BOARD**

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Executive Director  
George G. Hearn  
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Jacksonville

October 18, 2001

*Via Certified Mail,  
Return Receipt Requested*

Kevin A. Monce, D.V.M.  
P. O. Box 15396  
Wilmington, NC 28408

Re: File No. 00048-2-1  
Complaint of N.C. Veterinary Medical Board

Exhibit	18
Witness	Hearn
Date	9-15-01

Dear Dr. Monce:

I write on behalf of the Committee on Investigations No. 1 of the Veterinary Medical Board regarding the above complaint which was initiated by the Board and set forth in a letter to you of December 22, 2000 from Mr. Mickey.

The Committee has conducted its investigation pursuant to Board Rule .0601, a copy of which is enclosed. The Committee has found probable cause that you have violated the following statutory sections of the Veterinary Practice Act and Board administrative rules:

1. General Statute § 90-187.8(c)(6), which subsection allows the Veterinary Medical Board to take disciplinary action against a licensee for incompetence, gross negligence or other malpractice in the practice of veterinary medicine. Your violations of the Practice Act and Board Rules hereinafter listed were acts of incompetent practice.

2. Board Rule .0207(b)(15), which requires that all new veterinary facilities shall be inspected and approved by the Board prior to the practice of veterinary medicine within the facility. The Committee finds that the trailer owned by VetSound, Inc., and perhaps co-owned Renee Dailey Daniel, was such a facility in which you practiced medicine without prior inspection and approval.

3. Board Rule .0208, which govern facilities, such as the mobile facility in which you practiced, providing limited veterinary services. Specifically subsection (b) of the Rule requires compliance with the minimum standards of Rule .0207 by a veterinarian operating a facility covered by Rule .0208 (with certain limited exceptions).

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4. Board Rule .0202, which requires that the Board approve the name of the entity through which a veterinarian practices or delivers veterinary services. You did not obtain approval of the name under which you practiced.

5. General Statute § 90-187.11. You practiced veterinary medicine through a business corporation, VetSound, Inc.

6. Board Rule .0205(1) and (4). You made untrue representations, even if implied by your conduct, to the Board and to the Deases in the veterinarian-client-patient relationship regarding the legal compliance of the mobile facility as a place that had been inspected and approved for the delivery of veterinary medical services. You had also previously represented to the Board that you were engaged in a only non-invasive procedure consultative practice.

Other allegations were made in the complaint. The Committee has not yet made specific findings on those, and likely will not if the matter is resolved as discussed below through a Consent Order.

The purpose of this letter is to inform you that based on the findings of probable cause and pursuant to Rule .0601(g), the Committee is prepared to issue a notice of hearing sending all of the violations on which it finds probable cause to a contested case hearing before a hearing panel of the Board, or as otherwise permitted by the Veterinary Practice Act, Board Rules and G.S. Chapter 150B. If the matter goes to a hearing, there is a possibility that the Board will ask that an administrative law judge be assigned to hear the case and make recommendations to the Board pursuant to G.S. Chapter 150B.

The Committee has asked me to propose a resolution of this complaint to you through a Consent Order that would be presented to the Board for approval. This proposal is an option to you. If you decline this proposal, the matter will go to a hearing without any prejudice to you. However, at hearing, the Hearing Panel or administrative law judge is not limited to the discipline, whether more or less, decided by Committee 1. At hearing, the Board can seek recovery of its costs in this case in addition to other discipline.

The terms of a proposed Consent Order to resolve this complaint are:

1. The terms of the settlement would be contained in a Consent Order voluntarily signed by you and a member or duly authorized representative of the Board. It would be adopted as an order of the Board.

2. The Consent Order would contain findings of fact and conclusions of law setting forth the Committee's findings on at least the above violations.

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3. The disciplinary sanctions imposed would be as follows:

(a) Your veterinary license would be suspended for twelve (12) months; however, only three (3) months of this suspension would be active, and the balance of nine (9) months suspension would be stayed for a period of two years during, which time you would be on probation. You would be required to submit written reports to the Board during this probation and your practice facilities would be subject to unannounced inspections at your expense.

(b) While licensed you will practice only in facilities that have been inspected and approved and with approved names as provided by the Veterinary Practice Act and Board Rules. This is required by the Practice Act and Rules, but it would be an express condition of your probation.

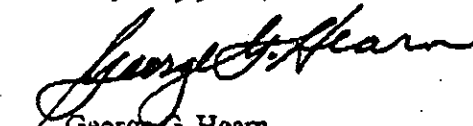
(c) You will cease and desist all veterinary services through VetSound, Inc. and not deliver veterinary services except individually or through a entity as permitted by the Veterinary Practice Act and Board Rules. This is required by the Practice Act and Rules, but it would be an express condition of your probation.

(d) You will pay to the Board within thirty (30) days of the entry of the Consent Order a civil monetary penalty in the sum of \$5,000.00. The civil monetary penalty will be assessed pursuant to G.S. § 90-187.8(b) and its applicable subsections, as well as Board Rule .0601(m).

(e) The Board would not assess costs in the Consent Order, but if the matter goes to hearing, I on behalf of the Board will seek recovery of costs from you pursuant to Board Rule .0601(l).

The Committee meets October 31 in Raleigh, and would appreciate your decision on this proposal by 5:00 p.m. on October 29. Thank you.

Very truly yours,

  
George G. Hearn  
Attorney for the Board

GGH:ccs  
Enclosure

cc: Committee on Investigations No. 1

## SECTION .0600 - ADMINISTRATIVE HEARINGS: PROCEDURES

## .0601 COMMITTEE ON INVESTIGATIONS

- (a) Upon receipt of a charge alleging misconduct against a licensee or registrant of the Board, the Executive Secretary shall inform the accused party of the nature of the charges as filed with the Board.
- (b) The accused party shall respond to the charges by filing a written answer with the Board within 20 days of the receipt of the notification of charges.
- (c) The complaining party shall be provided with a copy of the accused party's answer and within 20 days from receipt thereof shall file a reply to the accused party's answer.
- (d) The charges as filed with the Board, the answer and reply may be referred to the Committee on Investigations (hereinafter referred to as "Committee"). The Committee shall consist of three members of the Board, one of whom shall serve as chairman.
- (e) The Committee shall investigate the complaint referred to it by the Board and as part of the investigation may:
- (1) Assign the complaint to the Board's investigator who shall submit a written report to the Committee.
  - (2) Invite the complaining party and the accused party before the Committee to receive their oral statements, but neither party shall be compelled to attend.
  - (3) Conduct any other type of investigation as is deemed appropriate by the Committee.
- (f) Upon the completion of the investigation, the Committee shall determine whether or not there is probable cause to believe that the accused party has violated any standard of misconduct which would justify a disciplinary hearing based upon the grounds as specified in Article 11 of Chapter 90 of the North Carolina General Statutes or this Chapter.
- (g) If probable cause is found, the Committee shall direct the legal counsel for the Board to file a Notice of Hearing.
- (h) If probable cause is found, but it is determined that a disciplinary hearing is not warranted, the Committee may issue a reprimand to the accused party. A statement of such reprimand shall be mailed to the accused party. Within 15 days after receipt of the reprimand, the accused party may refuse the reprimand and request that Notice of Hearing be issued pursuant to Chapter 150B of the North Carolina General Statutes or this Chapter. Such refusal and request shall be addressed to the Committee and filed with the Executive Secretary for the Board. The legal counsel for the Board shall thereafter prepare and file a Notice of Hearing. If the letter of reprimand is accepted, a record of the reprimand shall be maintained in the office of the Board.
- (i) If no probable cause is found, the Committee shall dismiss the charges and prepare a statement of the reasons therefore which shall be mailed to the accused party and the complaining party.
- (j) If no probable cause is found, but it is determined by the Committee that the conduct of the accused party is not in accord with accepted professional practice or may be the subject of discipline if continued or repeated, the Committee may issue a letter of caution to the accused party stating that the conduct, while not the basis for a disciplinary hearing, is not professionally acceptable or may be the basis for a disciplinary hearing if repeated. A record of such letter of caution shall be maintained in the office of the Board.
- (k) A Board member who has served on the Committee is deemed disqualified to act as a presiding officer or member of the Board assigned to render a decision in any administrative disciplinary proceeding brought pursuant to a Notice of Hearing for which that member has sat in an investigative capacity as a member or chairman of the Committee.

*History Note: Statutory Authority G.S. 90-185(3); 90-185(6);  
 Eff. January 1, 1987;  
 Amended Eff. May 1, 1989.*