**STATE OF MARYLAND**
**DEPARTMENT OF AGRICULTURE**
**BEFORE THE STATE BOARD OF VETERINARY MEDICAL EXAMINERS**

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| IN THE MATTER OF THE COMPLAINT OF | * | |
| THE STATE BOARD OF VETERINARY MEDICAL | * | |
| | | DOCKET # 97-043 |
| EXAMINERS AGAINST | * | |
| BARBARA ANN KUMMEL, D.V.M. | * | |
| LICENSE NO. 2244 | * | |

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## CONSENT ORDER

The State Board of Veterinary Medical Examiners (Board) charged that Barbara Ann Kummel, D.V.M., License No. 2244, violated certain laws and regulations governing the practice of veterinary medicine in this State (the " Veterinary Practice Act"). Under the Veterinary Practice Act, the Board "may refuse, suspend, or revoke any application or license, and censure or place on probation any licensee ... if the veterinarian ... [f]ails to comply with Board ... regulations after receiving a license" (Md. Code Ann., Agric Art. §2-310 (8)); and in lieu of or in addition to suspending a veterinarian's license, the Board may impose a civil penalty of not more than $5000 (Md. Code Ann., Agric. Art., §2-310.1).

The Board's principle charges against Dr. Kummel alleged that she violated COMAR 15.14.01.04. This regulation, in its most pertinent part provides: "A veterinarian shall conduct himself in relation to the public, [and] his colleagues ... so as to merit their full confidence and respect." More specifically, in its amended charging document, the Board charged Dr. Kummel as follows:

> On or about, between December 7, 1995 and December 14, 1995, you [Dr. Kummel] stole pharmaceuticals, having a value of three hundred dollars or greater from Veterinary Referral Associates, Inc., and in so doing, failed to conduct yourself in relation to the public and your colleagues so as to merit their full confidence and respect, a violation of COMAR 15.14.01.04.
>
> On or about January 1996, you [Dr. Kummel] knowingly stocked the veterinary hospital that you had opened at 5828 Hubbard Drive, Rockville, Maryland with stolen pharmaceuticals, intending to use them in the course of your practice and in so doing, failed to conduct yourself in relation to the public and your colleagues so as to merit their full confidence and respect, a violation of COMAR 15.14.01.04.

> Your [Dr. Kummel's] actions in stealing pharmaceuticals from Veterinary Referral Associates, Inc. and in partially stocking your new hospital with these stolen pharmaceuticals demonstrate that you lack the good moral character requisite to practice veterinary medicine in this State as provided in Md. Agric. Code Ann. § 2-307.

On March 1, 1998, Dr. Kummel received notice of the amended charges by certified mail. On April 10, 1998, the Board conducted a resolution conference in this matter. As a result of this conference and the negotiations entered into between (1) the Administrative Prosecutor, Thomas F. Filbert, Assistant Attorney General, and (2) Dr. Kummel, and her representative, Paul T. Stein, Dr. Kummel agreed to enter into the following Consent Order according to the terms set forth below:

## FINDINGS OF FACT

Pursuant to the stipulation entered into between the Administrative Prosecutor and Dr. Kummel, the Board's factual findings in this matter are as follows:

1. Dr. Barbara Ann Kummel is licensed and registered to practice veterinary medicine in Maryland and has been since June, 1980 (License # 2244).

2. Beginning September 1993, and on or about, between December 7, 1995 and December 14, 1995, Dr. Kummel practiced veterinary medicine at Veterinary Referral Associates, Inc. (VRA), a licensed veterinary hospital located at 1501 Dufief Mill Road, Gaithersburg, Maryland.

3. On or about, between December 7, 1995 and December 14, 1995, Dr. Kummel stole pharmaceuticals, having a value of $300 or greater, that were the property of VRA.

4. On or about January 1996, Dr. Kummel opened her own veterinary hospital located at 5828 Hubbard Drive, Rockville, Maryland. On or about January 16, 1996, members of the Montgomery County Police Department searched this facility pursuant to a warrant they had obtained and seized pharmaceuticals that had been taken from VRA. The pharmaceuticals that the Montgomery County Police Department seized were found on the shelves of Dr. Kummel's hospital's pharmacy. (Exhibit 1 - Portion of Event Report prepared by Montgomery County Police Department referencing stolen items seized from Dr. Kummel's hospital).

5. The Montgomery County Office of the State's Attorney filed a Criminal Information against Dr. Kummel, charging that she committed Felony Theft (Article 27, §342, Annotated Code of Maryland. The Criminal Information alleged "that Barbara Ann Kummel, on or about between December 7, 1995 and December 14, 1995, in Montgomery County, Maryland, unlawfully did steal pharmaceuticals, the property of Veterinary Referral Associates, having the value of $300 or greater...." (Exhibit 2 - Criminal Information).

6. On July 28, 1997, after being advised of her constitutional rights, Dr. Kummel plead guilty to the charge set forth in the above-referenced Criminal Information, stating to the court that she was entering this plea freely and voluntarily and because she was in fact guilty. The Court (Martha G. Kavanaugh, Judge) accepted Dr. Kummel's guilty plea and found her guilty of Felony theft (Exhibit 3 - July 28, 1997 Transcript of Proceedings). VRA believed that the value of the stolen pharmaceuticals exceeded $65,000. Dr. Kummel stated that the value of the pharmaceuticals actually seized did not exceed $4,000. On November 20, 1997, Dr. Kummel received probation before judgment for this offense, placed on two years supervised probation and ordered to make restitution in the amount of $30,000 (Exhibit 4 - Docket Entries).

7. During this time frame, VRA and Dr. Kummel each had civil actions pending against one another. VRA sought reimbursement for the value of the pharmaceuticals that it alleged that Dr. Kummel had stolen. Dr. Kummel sought reimbursement for income that she alleged that VRA owed her under its contract with her, that sum being approximately $16,000; her complaint also sought damages for other alleged wrongdoing to her during her tenure at VRA.

8. Before the Court granted Dr. Kummel probation before judgment, the State's Attorney's Office, Dr. Kummel and VRA reached an agreement resolving all matters of restitution. Under the agreement, Dr. Kummel would pay $30,000 in restitution but that approximately $16,000 of this sum would be offset by the income VRA owed her under its contract with her.

## CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that Dr. Kummel is guilty of unprofessional conduct, a violation of Md. Code Ann., Agric. Art. 2-310(8) and **COMAR** 15.14.01.04, to wit: (1) That she stole pharmaceuticals from Veterinary Referral Associates, Inc.; and (2) That she knowingly stocked her veterinary hospital with stolen pharmaceuticals, intending to use then in the course of her practice.

## ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 28th of May, 1998, by the State Board of Veterinary Medical Examiners:

**ORDERED** that Dr. Kummel be and she is hereby **CENSURED** based on the conduct (violations) referenced above which the Board has found her guilty of committing;

**ORDERED** that Dr. Kummel pay a **CIVIL PENALTY** (fine) in the amount of One Thousand Dollars ($1,000.00) within sixty (60) days from receipt of this Order (payable to the State Board of Veterinary Medical Examiners);

**ORDERED** that Dr. Kummel be and that she is hereby placed on **PROBATION** for a period of three (3) years beginning on the date that the Board executes this Consent Order; and be it further

**ORDERED** that Dr. Kummel is subject to the following **TERMS AND CONDITIONS OF PROBATION**:

(1) Dr. Kummel shall obey all laws and regulations governing the practice of veterinary medicine in this State;

(2) Dr. Kummel shall pay the civil penalty that the Board imposed as specified above;

(3) Dr. Kummel shall perform one hundred (100) hours of community service, the nature and setting of which shall be approved by the Board;

(a) Dr. Kummel shall be solely responsible for submitting community service settings to the Board for its approval;

(b) Until such time that this service requirement is met, Dr. Kummel shall submit to the Board quarterly reports detailing for the particular quarter (or four month time frame), the number of community hours completed, and for each hour completed, the nature and setting of the service;

(c) Dr. Kummel shall complete this community service requirement on or before December 31, 1999, and/or as approved by the Board;

(4) Unless discharged before her probationary period is completed, Dr. Kummel shall continue receiving psychiatric treatment as prescribed by her physician;

(a) Dr. Kummel shall provide to the Board the name and address of the physician primarily responsible for providing the aforesaid psychiatric treatment; and if she changes such physician, Dr. Kummel shall provide the Board, within thirty (30) days from such change, the name and address of her new physician, and the reason(s) the new physician was obtained;

(b) Dr. Kummel shall sign any necessary release and request the named physician to provide monthly reports to the Board indicating: (i) The nature of the treatment plan prescribed and any subsequent changes in that plan and the reasons therefore; and (ii) Dr. Kummel's response to the treatment provided, including, whether she is following or adhering to the prescribed plan; (the

report shall be mailed to: State Board of Veterinary Medical Examiners, 50 Harry S. Truman Parkway, Annapolis, Maryland 21401)

**AND BE IT FURTHER ORDERED** that if Dr. Kummel fails to comply with any of the terms or conditions contained herein, her failure shall be deemed a violation of this Consent Order; and it is further

**ORDERED** that if Dr. Kummel, after notice and an opportunity for a hearing, is determined to have violated any of the terms or conditions of her probation, the Board may **SUSPEND** her license to practice medicine in this State for a period of up to one (1) year.

5/28/95
Date

Donald M. Carman, D.V.M.
President
State Board of Veterinary
Medical Examiners

## CONSENT

I, Barbara Ann Kummel, D.V.M., acknowledge that I am represented by legal counsel, and I have had an opportunity to consult with counsel before entering into and signing this document. By this Consent, I hereby acknowledge that the Board, by a preponderance of the evidence, could prove the Findings of Fact and Conclusions of Law contained herein. Accordingly, in order to resolve these matters, I agree to accept and submit to the foregoing Consent Order, consisting of six (6) pages.

I acknowledge the validity of this Consent Order as if entered after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the laws of the State of Maryland. I also affirm that I am waiving my right to appeal from this Consent Order.

I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order.

I sign this Consent Order without reservation as my voluntary act and deed after consulting with counsel, and I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

5/6/98
Date

Barbara Ann Kummel, D.V.M.
Respondent

Read and Approved:

5/6/98
Date

Paul T. Stein, Esquire
Attorney for Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF Montgomery

I HEREBY CERTIFY that on this 6th day of May, 1998, before me, a Notary Public of the State and City/County aforesaid, personally appeared Barbara Ann Kummel, D.V.M. and made oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS my hand and notarial seal.

Mary Elizabeth Hannan
Notary Public

My Commission expires: 11-01-01

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## STIPULATION

Thomas F. Filbert, Assistant Attorney General, presenter of evidence for the Maryland State Board of Veterinary Medical Examiners, and Barbara Ann Kummel, D.V.M, stipulate to the following facts in the above-referenced case:

1. Dr. Barbara Ann Kummel is licensed and registered to practice veterinary medicine in Maryland and has been since June, 1980 (License # 2244).

2. Beginning September 1993, and on or about, between December 7, 1995 and December 14, 1995, Dr. Kummel practiced veterinary medicine at Veterinary Referral Associates, Inc. (VRA), a licensed veterinary hospital located at 1501 Dufief Mill Road, Gaithersburg, Maryland.

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obtained and seized pharmaceuticals that had been taken from VRA. The pharmaceuticals that the Montgomery County Police Department seized were found on the shelves of Dr. Kummel's hospital's pharmacy. (Exhibit 1 - Portion of Event Report prepared by Montgomery County Police Department referencing stolen items seized from Dr. Kummel's hospital).

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sought damages for other alleged wrongdoing to her during her tenure at VRA.

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5/6/98

Barbara Ann Kummel, D.V.M. Date

4/28/98

Thomas F. Filbert Date
Assistant Attorney General