TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

vs.

RAYMOND O. FOWLER, D.V.M.

TEXAS VETERINARY MEDICAL LICENSE NO. 1613
1989 RENEWAL CERTIFICATE NUMBER 3426

COMPLAINT AFFIDAVIT FORM

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

On or about October 5, 1987, Thomas Cheshire, 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 RAYMOND O. FOWLER, D.V.M., Fowler Veterinary Clinic, 121 North US 69, Huntington, Angelina County, Texas, Texas Veterinary License Number 1613, 1989 Renewal Certificate Number 3426, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas Board of Veterinary Medical Examiners, I, MAX BLANTON do hereby present the following complaint against RAYMOND O. FOWLER, D.V.M., who is hereinafter called Respondent.

I.

On or about October 5, 1987, Mr. Cheshire inquired as to Respondent's dispensing and or prescribing of the drug, Dexedrine, aka Dextroamphetamine Sulfate, a Schedule II controlled substance. Information on the following listed Triplicate Prescription indicates that the Dexedrine was for a dog "Chip" which belonged to a client Juanette Ellis.

<table>
<thead>
<tr>
<th>TRIPlicate PRESCRIPTION</th>
<th>QTY</th>
<th>STRENGTH</th>
<th>DATE WRITTEN</th>
</tr>
</thead>
<tbody>
<tr>
<td>81346 02 116 76</td>
<td>10</td>
<td>5mg</td>
<td>05/04/87</td>
</tr>
</tbody>
</table>

Respondent advised Mr. Cheshire that the Dexedrine was to "stimulate" the dog "Chip" for breeding purposes. Mr. Cheshire's report of the investigation states that Respondent's records did not reflect entries for dispensing of the Dexedrine. Subsequent to that visit, a copy of Respondent's patient records were provided to the Board staff and they reflected entries for dispensing of the Dexedrine for "Chip". Ms. Ellis, the client, advised Mr. Cheshire that the Dexedrine was for her personal use and that the Respondent was aware that the Dexedrine was for her personal use as a stimulant and not for an animal.

II.

On or about October 5, 1987, Mr. Cheshire inquired as to Respondents' dispensing and or prescribing of the drug, Dexedrine a Schedule II controlled substance. Information on the following listed Triplicate Prescription indicates that the Dexedrine was for a dog "Chip" which belonged to a client Juanette Ellis.

<table>
<thead>
<tr>
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<th>QTY</th>
<th>STRENGTH</th>
<th>DATE WRITTEN</th>
</tr>
</thead>
<tbody>
<tr>
<td>81346 02 116 01</td>
<td>10</td>
<td>Span. 10mg</td>
<td>10/12/83</td>
</tr>
</tbody>
</table>
Respondent advised Mr. Cheshire that the Dexedrine was to "stimulate" the dog "Chip" for breeding purposes. Mr. Cheshire's report of the investigation states that Respondent's records did not reflect entries for dispensing of the Dexedrine. Subsequent to that visit, a copy of Respondent's patient records were provided to the Board staff and they then reflected entries for dispensing of the Dexedrine for "Chip". Ms. Ellis, the client, advised Mr. Cheshire that the Dexedrine was for her personal use and that the Respondent was aware that the Dexedrine was for her personal use and not for an animal.

III.

The Respondent, while under investigation by the Veterinary Board for the prescribing of Dexedrine outlined in Paragraphs I and II, did knowingly provide an erroneous and false written response to the Board's Executive Director and Board Secretary concerning the investigation. Said response had the effect of covering up the prescribing of Dexedrine to a person and thereby leading to a conclusion of "No Violation" by the Secretary.

IV.

Respondent ordered and received for the Fowler Veterinary Clinic the Controlled Substances listed below without maintaining adequate patient and or drug records. It was stated by Respondent to Investigator Cheshire that the drugs marked by an asterisk (*) were dispensed by Respondent for human treatment to Juanette Ellis. The drug marked with a double asterisk (**) was for Respondent's self treatment.

Invoice Number 228440
Medical Rx Of Huntington    Huntington, Texas

<table>
<thead>
<tr>
<th>SCHEDULE</th>
<th>DRUG NAME &amp; STRENGTH</th>
<th>QTY</th>
<th>FILL DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>IV</td>
<td>Propoxy 100mg/apap 650mg</td>
<td>100</td>
<td>10/05/87</td>
</tr>
<tr>
<td>IV</td>
<td>Darvocet N 100mg</td>
<td>10</td>
<td>09/11/87</td>
</tr>
<tr>
<td>Rx</td>
<td>Stadol Inj. 2mg/ml</td>
<td>1</td>
<td>08/18/87</td>
</tr>
<tr>
<td>V</td>
<td>Buprenex Inj.0.3</td>
<td>10</td>
<td>08/12/87</td>
</tr>
<tr>
<td>III</td>
<td>Zydone Capsules</td>
<td>30</td>
<td>08/12/87</td>
</tr>
<tr>
<td>IV</td>
<td>Dalmame 30mg</td>
<td>15</td>
<td>08/04/87</td>
</tr>
<tr>
<td>IV</td>
<td>Propoxyphene Compound 65</td>
<td>100</td>
<td>07/16/87</td>
</tr>
<tr>
<td>IV</td>
<td>Propoxy Cmpd 65</td>
<td>100</td>
<td>06/02/87</td>
</tr>
<tr>
<td>IV</td>
<td>* Halcion 0.5mg</td>
<td>30</td>
<td>05/20/87</td>
</tr>
<tr>
<td>IV</td>
<td>Propoxy Cmpd 65</td>
<td>100</td>
<td>05/13/87</td>
</tr>
<tr>
<td>III</td>
<td>* Synalgos DC</td>
<td>500</td>
<td>05/13/87</td>
</tr>
<tr>
<td>III</td>
<td>* Synalgos DC</td>
<td>100</td>
<td>05/04/87</td>
</tr>
<tr>
<td>V</td>
<td>** Phenergan Expect With CO</td>
<td>4</td>
<td>05/04/87</td>
</tr>
</tbody>
</table>

V.

Respondent stated to Investigator Cheshire that he ordered and received for his personal treatment, the Controlled Substances listed below.

Invoice Number 2610
Medical Rx Of Huntington    Huntington, Texas

<table>
<thead>
<tr>
<th>SCHEDULE</th>
<th>DRUG NAME</th>
<th>QTY</th>
<th>FILL DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>III</td>
<td>Synalgos DC</td>
<td>100</td>
<td>04/15/87</td>
</tr>
<tr>
<td>III</td>
<td>Hy-Phen Tablets</td>
<td>4</td>
<td>01/02/87</td>
</tr>
</tbody>
</table>
VI.

Respondent stated to Investigator Cheshire that on or about August 15, 1986, Respondent received from the Moore Company, on Invoice # 2601329, the following drugs and the Drugs indicated by a single asterisk (*) were for Respondent's self treatment and the double asterisk (**) were for treatment of client Juanette Ellis for pain.

<table>
<thead>
<tr>
<th>SCHEDULE</th>
<th>DRUG NAME</th>
<th>QTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>III</td>
<td>**Synalgos DC Caps</td>
<td>500</td>
</tr>
<tr>
<td></td>
<td>Deconade Caps</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>Levothyroxine SOD 0.2mg</td>
<td>1000</td>
</tr>
<tr>
<td>Rx</td>
<td>*Slow-K Tabs 600mg</td>
<td>1000</td>
</tr>
<tr>
<td>Rx</td>
<td>*Procardia Caps 10mg</td>
<td>200</td>
</tr>
</tbody>
</table>

VII.

Respondent stated to Investigator Cheshire that, Respondent received from the Moore Company, on Invoice # 2655881, the following drugs and the drugs marked with an asterisk (*) were for client Juanette Ellis for treatment of pain.

<table>
<thead>
<tr>
<th>SCHEDULE</th>
<th>DRUG NAME</th>
<th>QTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>IV</td>
<td>* (Valium) Diazepam 5mg Orange Mylan</td>
<td>500</td>
</tr>
<tr>
<td>IV</td>
<td>* (Valium) Diazepam 10mg Green Mylan</td>
<td>100</td>
</tr>
<tr>
<td>Rx</td>
<td>Tetracycline 250mg Caps OR/Y</td>
<td>1000</td>
</tr>
<tr>
<td></td>
<td>Laxatone 2.5oz</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>Syr &amp; Ndl Combo 3CC 20X1</td>
<td>500</td>
</tr>
</tbody>
</table>

VIII.

The following Schedule II drugs were obtained by Respondent on Invoice indicated. Respondent failed to account for the Schedule II drugs with adequate patient or drug records.

<table>
<thead>
<tr>
<th>SUPPLIER</th>
<th>INVOICE #</th>
<th>DATE</th>
<th>ITEM</th>
<th>QTY</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schein Inc</td>
<td>3812752</td>
<td>06/03/86</td>
<td>Meperidine 3X30ml (50 mg/cc)</td>
<td>90 ml.</td>
<td></td>
</tr>
</tbody>
</table>

IX.

Respondent's United States Department of Agriculture (USDA) Veterinary accreditation was revoked by the USDA, effective March 15, 1988, for violation of rules and regulations pertaining to Veterinary Accreditation.

X.

Through his actions as described in Paragraph I (No veterinary/client/patient relationship, prescribing to a person; no maintenance of adequate patient records). Respondent has violated the Rules of Professional Conduct, Rules 27, 32, and 33, dated 8/86, which state:
RULE 27 CONTROLLED SUBSTANCES: PRESCRIBING OR DISPENSING
It is unprofessional conduct for a licensed veterinarian to prescribe or dispense, deliver or order delivered any controlled substance without first having established a patient/veterinarian relationship by having personally examined the individual animal, herd, or a representative segment or a consignment lot thereof and determined that such controlled substance is therapeutically indicated following said examination.

RULE 32 PATIENT RECORD KEEPING
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 years and are the responsibility and property of the employing veterinarian.

RULE 33 CONTROLLED SUBSTANCES
It shall be unprofessional and a violation of the Rules of Professional Conduct for the veterinary profession for a 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 or 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.

XI.

By his actions as described in Paragraph II (prescribing to a person and not to an animal) Respondent has violated the Rules of Professional Conduct, Rule 28 dated 3/79 which states:

RULE 28
It is unprofessional conduct for a licensed veterinarian to prescribe or dispense, deliver or order delivered any controlled substance without first having established a patient/veterinarian relationship by having personally examined the individual animal, herd, or a representative segment or a consignment lot thereof and determined that such controlled substance is therapeutically indicated following said examination.

XII.

By his actions in Paragraph III (providing false information intended to deceive), Respondent has violated the Veterinary Licensing Act, Section 14(c) and (3) and Rule 23 dated 8/86 which state:
Art. 7465a, Sec. 14 (c) and (e), Veterinary Licensing Act
".....the Board may revoke or suspend a license, place a
person whose license has been suspended on probation or rep-
rimand a licensee....if it finds that an applicant or lic-
ensee:
(c) has engaged in dishonest or illegal practices in or con-
ected with the practice of veterinary medicine; or
(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;

RULE 23 NO ABUSE OF POSITION OR TRUST
Any veterinarian who used present or past position, or office
of trust, deliberately to create for himself any individual
professional advantage, or to coerce, or to deceive the
public shall be in violation of the Rules of Professional
Conduct.

XIII.

By his actions as described in Paragraph IV (failure to maintain
adequate patient and/or drug records and prescribing to a person),
Respondent has violated the Veterinary Licensing Act, Section 7(b) and
the Rules of Professional Conduct, Rules 27, 32, and 33 dated 8/86
which state:

VETERINARY LICENSING ACT, SECTION 7(b):
The Board may require its licensees to maintain a
record-keeping system for certain controlled substances pre-
scribed by the Board that includes the quantities and date of
purchase, quantities and date dispensed, quantities and date admin-
istered, balance on hand, the name and address of the
client and patient receiving the drugs, and the reason for
dispensing or administering the drugs to such patient. The
records are subject to review by law enforcement agencies and
by representatives of the Board. A failure to keep such
records shall be grounds for revoking, cancelling, suspend-
ing, or probation the license of any practitioner of vet-

RULE 27 CONTROLLED SUBSTANCES: PRESCRIBING OR DISPENSING
It is unprofessional conduct for a licensed veterinarian to
prescribe or dispense, deliver or order delivered any con-
trolled substance without first having established a
patient/veterinarian relationship by having personally exam-
ined the individual animal, herd, or a representative segment
or a consignment lot thereof and determined that such con-
trolled substance is therapeutically indicated following said
examination.

RULE 32 PATIENT RECORD KEEPING
Individual records will include, but are not limited to,
identification of patient, patient history, including immuni-
zation 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 years and are the responsibility and property of the employing veterinarian.

RULE 33 CONTROLLED SUBSTANCES
It shall be unprofessional and a violation of the Rules of Professional Conduct for the veterinary profession for a 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 or 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.

XIV.

Through his actions as described in Paragraph V, VI and VII, (failure to establish a veterinary-client-patient relationship and prescribing to a person), Respondent has violated the Rules of Professional Conduct, Rules 27 and 33 dated 8/86, which state:

RULE 27 CONTROLLED SUBSTANCES: PRESCRIBING OR DISPENSING
It is unprofessional conduct for a licensed veterinarian to prescribe or dispense, deliver or order delivered any controlled substance without first having established a patient/veterinarian relationship by having personally examined the individual animal, herd, or a representative segment or a consignment lot thereof and determined that such controlled substance is therapeutically indicated following said examination.

RULE 33 CONTROLLED SUBSTANCES
It shall be unprofessional and a violation of the Rules of Professional Conduct for the veterinary profession for a 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 or 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.

XV.

By his actions as described in Paragraph VIII (failure to maintain adequate patient and/or drug records), Respondent has violated the Veterinary Licensing Act, Section 7 (b) and the Rules of Professional Conduct, Rule 30 dated 1985, which states:
VETERINARY LICENSING ACT, SECTION 7(b):
The Board may require its licensees to maintain a record-keeping system for certain controlled substances prescribed by the Board that includes the quantities and date of purchase, quantities and date dispensed, quantities and date administered, balance on hand, the name and address of the client and patient receiving the drugs, and the reason for dispensing or administering the drugs to such patient. The records are subject to review by law enforcement agencies and by representatives of the Board. A failure to keep such records shall be grounds for revoking, cancelling, suspending, or probating the license of any practitioner of veterinary medicine. (Amended by Acts 1981, 67th Legislature).

RULE 30 CONTROLLED SUBSTANCES RECORD KEEPING
Texas veterinarians shall maintain at their place of business records of all drugs listed in Schedule II of 21 Code of Federal Regulation, Part 1300 to end, in their possession. These records shall be maintained for a minimum of five (5) years. The Board shall prescribe a form for keeping records of those Schedule II substances which shall contain the following information:

A. Date of Acquisition
B. Quantity Purchased
C. Date Administered, Dispensed, or Prescribed
D. Quantity Administered, Dispensed, or Prescribed
E. Name of Client and Patient receiving the Drug(s)
F. Diagnosis
G. Balance on Hand

XVI.

By having his USDA Accreditation revoked by the USDA, as described in Paragraph IX, Respondent has violated Rule 25 Rules of Professional Conduct dated 8/86 which states:

RULE 25 DISCIPLINARY ACTION
A licensed veterinarian whose accreditation has been revoked by State or Federal authority is subject to disciplinary action by the Texas State Board of Veterinary Medical Examiners upon proof of removal of accreditation by said authority.

XVII.

By his actions as described in Paragraphs I, II, IV, V, VI, and VII, of this document, Respondent has violated the Rules of Professional Conduct, Rule 5, which states:

RULE 5 ADHERENCE TO THE LAW
No veterinarian shall render any service or advice involving disloyalty to the law. A veterinarian must also observe and advise his client to observe the statute law.
XVIII.

The Texas State Board of Veterinary Medical Examiners has authority to take disciplinary action against RAYMOND O. FOWLER'S veterinary license under the Texas Veterinary Licensing Act, Article 7465a, V.A.C.S., Sections 14 (c) and (e) which state in part:

Article 7465a, Section 14 (c) and (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:

(c) has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine; or

(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 the th day of September, 1989.

Further, Affiant sayeth not.

MAX BLANTON, Affiant

SUBSCRIBED and SWORN TO before me by the said MAX BLANTON, this the th day of September, 1989.

JUDY C. SMITH
Notary Public in and for Texas

JUDY C. SMITH
Notary Public, State of Texas
My Commission Expires
SEPT. 13, 1993

My Commission Expires: September 13, 1993

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. Raymond O. Fowler, D.V.M. under Docketed Number 1989-8, this the th day of September, 1989.

ROBERT D. LEWIS, D.V.M., Secretary
Texas Board of Veterinary Medical Examiners