DOCKETED COMPLAINT NO. 1987-12

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

vs.

JACKIE ALLEN VALERIUS, D.V.M.

TEXAS VETERINARY MEDICAL
LICENSE NO. 2224
1986 RENEWAL CERTIFICATE
NUMBER 3592

FINDING, CONCLUSIONS AND ORDERS OF THE BOARD

On the 29th day of January, 1987, the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting at the Hyatt Regency Hotel in Fort Worth, Tarrant County, Texas, such meeting being called for the purpose of hearing and considering the above numbered and entitled complaint as well as for consideration of other Board business, and the above entitled and numbered complaint having been previously scheduled for hearing and Defendant, the said JACKIE A. VALERIUS, D.V.M., having been duly notified and the following members of the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS being present, to-wit:

DR. ED B. AVERY, President
DR. EDMUND S. MURRAY, Vice-President
DR. W. L. "DUB" ANDERSON, Secretary
MR. JIM F. HUMPHREY, Member
MR. MIKE LEVI, Member
DR. MARY E. MAINSTER, Member
DR. FRANK E. MANN, JR., Member
DR. FRED K. SOIFER, Member

of Pearsall, TX
of Spur, TX
of Addison, TX
of Henrietta, TX
of Spicewood, TX
of San Antonio, TX
of Wharton, TX
of Houston, Texas

At 11:00 a.m., the appointed hour, the President of the Board, DR. ED B. AVERY ordered the case to proceed at which time it was ascertained that JACKIE A. VALERIUS, D.V.M. was present in person; the Board then proceeded to hear the evidence presented by the State, and by JACKIE A. VALERIUS, D.V.M. and on the same day, January 29, 1987, all of the above members of said Board being present and participating, makes the following findings to-wit:

FINDINGS OF FACT

1.

JACKIE ALLEN VALERIUS, D.V.M. is a doctor of veterinary medicine, licensed to practice veterinary medicine in the State of Texas under License Number 2224, 1986 Renewal Certificate Number 3592, with offices in Harlingen, Cameron County, Texas.
II.

JACKIE ALLEN VALERIUS, D.V.M. received notice of this hearing on January 16, 1987.

III.

JACKIE ALLEN VALERIUS, D.V.M. was present before the Board and was not represented by legal counsel.

IV.

JACKIE A. VALERIUS, D.V.M. has failed to maintain, at his place of business, adequate records for the following drugs which were ordered in DEA Form 222:

<table>
<thead>
<tr>
<th>Date</th>
<th>Quantity</th>
<th>Drug &amp; Concentration</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/18/86</td>
<td>100</td>
<td>Ritalin (Methylphenidate Hydrochloride) - 20 mg.</td>
</tr>
<tr>
<td>7/30/86</td>
<td>100</td>
<td>Ritalin (Methylphenidate Hydrochloride) - 20 mg.</td>
</tr>
<tr>
<td>8/26/86</td>
<td>400</td>
<td>Ritalin (Methylphenidate Hydrochloride) - 20 mg.</td>
</tr>
<tr>
<td>TOTAL</td>
<td>600</td>
<td></td>
</tr>
</tbody>
</table>

V.

JACKIE A. VALERIUS, D.V.M. dispensed the following amounts of a Schedule II drug, Ritalin, when not necessary and for other than medically sound reasons. Further, Dr. Valerius failed to determine that these Schedule II drugs were actually administered to the animals.

7/22/86  Ritalin x 156 to Decker Filly-for training purposes
8/26/86  Ritalin x 12 to Garcia Colt-for training purposes
9/27/86  Ritalin x 12 to Garcia Colt-for training purposes
9/27/86  Ritalin x 12 to Garcia Filly-for training purposes
11/4/86  Ritalin x 24 to Touched Colt & Filly-training purposes
11/18/86 Ritalin x 9 to Kristy Colt-for training purposes

VI.

JACKIE A. VALERIUS, D.V.M. failed to utilize the Triplicate Prescription form as prescribed by the Texas Controlled Substances Act when dispensing Schedule II drugs.

CONCLUSIONS OF LAW

I.

By failing to maintain records on controlled substances at his place of business, JACKIE A. VALERIUS, D.V.M. has violated Article 7465a, Section 7(b) of the Veterinary Practice Act which states:
Article 7465a, Section 7(b) - Veterinary Practice Act

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.

II.

By failing to maintain records on controlled substances at his place of business, JACKIE A. VALERIUS, D.V.M. has violated Rule 30 of the Rules of Professional Conduct which states:

Rule No. 30 -
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

III.

That by dispensing Schedule II drugs without determining if the drugs were actually administered and/or for medically sound reasons DR. JACKIE A. VALERIUS has violated 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.

IV.

By dispensing Schedule II drugs without determining if the drugs were actually administered and/or for medically sound reasons DR. JACKIE A. VALERIUS has violated Rule 33 of the Rules of Professional Conduct which 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 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.

V.

Dr. Jackie A. Valerius, "has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine" under Article 7465a, Section 14(c), which gives the Board grounds to revoke or suspend a license, place a person whose license has been suspended on probation or reprimand a licensee.

VI.

Dr. Jackie A. Valerius, "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" under Article 7465a, Section 14(e) which gives the Board grounds to revoke or suspend a license, place a person whose license has been suspended on probation or reprimand a licensee.
ORDER

It is hereby ORDERED that Texas Veterinary License No. 2224, heretofore issued to JACKIE A. VALERIUS, D.V.M. by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, be and the same is HEREFY SUSPENDED for a period of two (2) years, commencing thirty (30) days from the date this Order is received by the Defendant, PROVIDED HOWEVER, that the execution of this Order of Suspension be and it is HEREFY PROBATED for 23 months upon the following conditions:

1. That Dr. Valerius take the State Board Examination on Jurisprudence at the Board Offices in Austin, within 60 days of receipt of this Order. The examination will be taken to demonstrate Dr. Valerius' knowledge of the Veterinary Practice Act and will not be administered on a pass/fail basis but as a means to identify deficiencies in Dr. Valerius' understanding of the Act. Said examination will be critiqued and corrected to 100% with Dr. Valerius, to enhance his understanding of the Act.

2. That Dr. Valerius improve his record-keeping system for both controlled substances and patient records and provide the Board with evidence of a satisfactory system which is in compliance with Statute.

3. Submit a quarterly report to the Board commencing April 1, 1987, assuring compliance with this Board Order.
The foregoing Findings and Orders of the Texas State Board of Veterinary Medical Examiners are ORDERED to be entered as the FINDINGS AND ORDERS of the Board, a quorum and a majority of the members of such Board being present and participating in such hearing, deliberations and decision, and such FINDINGS AND ORDERS are made on the 29th day January, 1987, in Fort Worth, Tarrant County, Texas.

The Secretary of the Board is hereby ordered to prepare the Board’s Findings and Orders in appropriate form and submit to the members of the Board for their signatures and to mail a copy of same to the Respondent at his last known address.

Executed this 29th day of January, 1987.

Ed B. Avery, D.V.M.  
ED B. AVERY, D.V.M., President  
1/29/87  

(Vacant)  

W. L. "Dub" Anderson, D.V.M., Secretary  
1/29/87  

Jim F. Humphrey, Member  
1/29/87  

Mike Levi  
1/29/87  

Mary E. Mainster, D.V.M.  
MARY E. MAINSTER, D.V.M., Member  
1/29/87  

Frank E. Mann, Jr., D.V.M., Member  
1/29/87  

Fred K. Soifer, D.V.M., Member  
1/29/87  

Edward Murray, D.V.M.  
EDWARD S. MURRAY, D.V.M., Member  
1/29/87
DOCKETED COMPLAINT NO. 1987-12

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

vs.

JACKIE ALLEN VALERIUS, D.V.M.

TEXAS VETERINARY MEDICAL
LICENSE NO. 2224
1986 RENEWAL CERTIFICATE NUMBER 3592

COMPLAINT AFFIDAVIT FORM

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

"I, THOMAS CHERISH 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 JACKIE A. VALERIUS D.V.M., AA Animal Clinic, 1824 North 77 Sunshine Strip, Harlingen, Cameron County, Texas, Texas Veterinary License Number 2224, 1986 Renewal Certificate Number 3592, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas Board of Veterinary Medical Examiners, I, THOMAS CHERISH do hereby present the following complaint against JACKIE A. VALERIUS, D.V.M., who is hereinafter called Respondent.

I.

JACKIE A. VALERIUS, D.V.M. has failed to maintain, at his place of business, adequate records for the following drugs which were ordered in DEA Form 222 (See Exhibit A):

<table>
<thead>
<tr>
<th>Date</th>
<th>Quantity</th>
<th>Description</th>
<th>Strength</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/18/86</td>
<td>100</td>
<td>Ritalin (Methylphenidate Hydrochloride)</td>
<td>20 mg.</td>
</tr>
<tr>
<td>7/30/86</td>
<td>100</td>
<td>Ritalin (Methylphenidate Hydrochloride)</td>
<td>20 mg.</td>
</tr>
<tr>
<td>8/26/86</td>
<td>400</td>
<td>Ritalin (Methylphenidate Hydrochloride)</td>
<td>20 mg.</td>
</tr>
</tbody>
</table>

TOTAL 600

II.

JACKIE A. VALERIUS, D.V.M. dispensed the following amounts of a Schedule II drug, Ritalin, when not necessary and for other than medically sound reasons. Further, Dr. Valerius failed to determine that these Schedule II drugs were actually administered to the animals.
7/22/86 Ritalin x 156 to Decker Filly—for training purposes
8/26/86 Ritalin x 12 to Garcia Colt—for training purposes
9/27/86 Ritalin x 12 to Garcia Colt—for training purposes
9/27/86 Ritalin x 12 to Garcia Filly—for training purposes
11/4/86 Ritalin x 24 to Touchet Colt & Filly—training purposes
11/18/86 Ritalin x 9 to Kristy Colt—for training purposes

III.

JACKIE A. VALERIUS, D.V.M. failed to utilize the Triplicate Prescription form as prescribed by the Texas Controlled Substances Act when dispensing Schedule II drugs.

IV.

Because of the acts in Paragraph I, failing to maintain records on controlled substances at his place of business, JACKIE A. VALERIUS, D.V.M. has violated Article 7465a, Section 7(b) of the Veterinary Practice Act and Rule 30 of the Rules of Professional Conduct which state:

Article 7465a, Section 7(b) – Veterinary Practice Act
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.

Rule No.30—
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, orPrescribed
D. Quantity Administered, Dispensed, or Prescribed
E. Name of Client and Patient receiving the Drug(s)
F. Diagnosis
G. Balance on Hand
Violation of Article 7465a, Section 7(b) and Rules 30 of the Rules of Professional Conduct constitute engaging "in dishonest or illegal practices in or connected with the practice of veterinary medicine" under Article 7465a, Section 14(c).

V.

Further, through the acts stated in Paragraph II, dispensing Schedule II drugs without determining if the drugs were actually administered and/or for medically sound reasons DR. JACKIE A. VALERIUS has violated Rules 32, and 33 of the Rules of Professional Conduct which state:

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.

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 or possession of such drugs would promote addiction thereto. For purposes of this 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.

VI.

The acts outlined in Paragraph III, failing to utilize Triplicate Prescription forms as required under the Controlled Substances Act, constitute engaging "in dishonest or illegal practices in or connected with the practice of veterinary medicine" under Article 7465a, Section 14(c).

VII.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Conway's license under the Texas
Veterinary Licensing Act, Article 7465a, V.A.T.C.S., Section 7(b) and Sections 14(c) and (3) which state:

**Article 7465a, Section 7(b), Veterinary Licensing Act** -
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, canceling, suspending, or probating the license of any practitioner of veterinary medicine.

**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;
(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 31st day of December, 1986.

Further, Affiant sayeth not.

[Signature]

THOMAS CHERISH, Affiant

SUBSCRIBED and SWORN TO before me by the said THOMAS CHERISH on this the 31st day of December, 1986.

[Signature]

JUDY C. SMITH,
Notary Public in and for Texas

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. JACKIE ALLEN VALERIUS, D.V.M., under Docket Number 1987-12, this the 31/day of December, 1986.

[Signature]

K. D. DORRIS, D.V.M., Secretary
Texas State Board of Veterinary Medical Examiners
CERTIFICATION

Now comes Larry Taylor who, after being duly sworn, deposes and says:

"I am Staff Services Assistant, Triplicate Prescription Section, Narcotics Service, Texas Department of Public Safety, and, as such, I am the official charged with the care and custody of all documents received by the Texas Department of Public Safety pursuant to Section 3.09 of the Texas Controlled Substances Act. (Article 4476-15, V.T.C.S.)"

The attached printout reflects prescriptions issued by DR. JACKIE A. VALERIUS, DVM, Texas Controlled Substances Registration Certification Number S0015079, as shown by records on file with the Texas Department of Public Safety, Triplicate Prescription Section.

To Certify which witness by hand this 8th day January, 1987.

Larry Taylor, Staff Services Assistant

Subscribed and sworn to before me this 8th day January, 1987.

Genevieve McKinster, Notary Public