DOCKETED COMPLAINT NO. 1991-08-AMENDED

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

vs.

MICHAEL E. VOGT, D.V.M.

FINDINGS, CONCLUSIONS AND ORDERS OF THE BOARD

On the 7th day of February, 1991, the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting at the Hyatt Regency Hotel, 1200 Louisiana Street, Houston, Harris 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 MICHAEL E. VOGT, 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. Robert D. Lewis, President of Elgin, TX
Dr. Mary E. Mainster, Vice President of San Antonio, TX
Dr. Guy A. Sheppard, Secretary of San Angelo, TX
Ms. Olivia Eudaly, Member of Fort Worth, TX
Dr. Alton F. Hopkins, Jr., Member of Dallas, TX
Dr. Fred K. Soifer, President of Houston, TX
Mr. Clark S. Willingham, Member of Dallas, TX

At the appointed hour, the President of the Board, DR. ROBERT D. LEWIS ordered the case to proceed at which time it was ascertained that Michael E. Vogt, D.V.M. was present, the Board then proceeded to hear the evidence presented by the State, and on the same day, February 7, 1991, all of the above members of said Board being present and participating with the exception of the Secretary of the Board, makes the following findings to-wit:

FINDINGS OF FACT

I.

MICHAEL E. VOGT, D.V.M. is a doctor of veterinary medicine, licensed to practice veterinary medicine in the State of Texas under License Number 5686, and 1990 Renewal Certificate Number 4778.

II.

Dr. Vogt received notice of this hearing on or about January 7, 1991.

III.

Respondent ordered, and was shipped, the prescription drug, Wyamine Sulfate, aka Mephestermine Sulfate, from Miller Veterinary Supply Co. as indicated:

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<td>06 x 10cc</td>
<td>Inj.</td>
<td>Jan 11, 1989</td>
<td>018463</td>
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</tbody>
</table>
IV.

Respondent administered and/or dispensed the forementioned Wyamine Sulfate, when not therapeutically indicated and when not necessary or required for the medical care of animals, in that Respondent administered and/or dispensed the drugs as a training aid for horses.

V.

Respondent failed to maintain at his place of business adequate patient records for the disposition of the Wyamine Sulfate.

VI.

Respondent presented false documentation on or about November 8, 1990, during an administrative conference, to account for the disposition of the Wyamine Sulfate in an effort to deceive the Board staff and thereby the public as represented by the Board.

VII.

On or about May 29, 1990, Respondent filed a change of address with the U.S. Post Office in Grapevine, Texas, requesting a forwarding address of P. O. Box 12697, Kansas City, KS 66112. As of September, 1990, Respondent had not filed a change of address with the Board Offices.

CONCLUSIONS OF LAW

I.

By administering and/or dispensing the Wyamine Sulfate when not therapeutically indicated and when not necessary or required for the medical care of animals, Respondent has violated Rule 573.41 of the Rules of Professional Conduct and the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 14(a)(5) which states:

573.41 USE OF PRESCRIPTION DRUGS
(a.) It is unprofessional conduct for a licensed veterinarian to prescribe or dispense, deliver, or order delivered any prescription drug without first having established a veterinary/client/patient relationship by having personally examined the individual animal, herd, or a representative segment or a consignment lot thereof and determined that such prescription drug is therapeutically indicated following said examination. Prescription drugs include all controlled substances in Schedules I thru V and Legend Drugs which bear the federal legends, recognized as such by any law of the State of Texas or of the United States.

(b.) It shall be unprofessional and a violation of the Rules of Professional Conduct for a licensed veterinarian to prescribe, provide, obtain, order, administer, possess, dispense, give or deliver to or for any person prescription drugs, that are not necessary or required for the medical care of animals, or where the use or possession of such drugs would promote addiction thereto. Prescription drugs are defined in subsection (a.) of this section.
Article 8890, Sec. 14(a)  
"...the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a license...if it finds that...a licensee:

(5) 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 law;

II.

Through failure to maintain adequate patient records, to substantiate the use of the aforementioned Wyamine Sulfate, Respondent has violated Rule 573.52 of the Rules of Professional Conduct and the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 14(a)(5) which state?:

573.52 PATIENT RECORD KEEPING  
(a.) Individual records will be maintained at the place of business and include, but are not limited to, identification of patient, patient history, including immunization records, dates of visits, x-rays, name and dosages of medications administered and/or dispensed, and other details as necessary to substantiate diagnosis and treatment.  
(b.) Patient records shall be current and maintained on the business premises for a period of three years and are the responsibility and property of the employing veterinarian.  
(c.) When appropriate, licensees may substitute the words "herd", "flock" or other collective term in place of the word "patient" in subsections (a.) and (b.) of this section. Records to be maintained on these animals may be kept in a daily log, or the billing records, provided that the treatment information that is entered is adequate to substantiate the identification of these animals and the medical care provided. In no case does this eliminate the requirement to maintain drug records as specified by state and federal law and Board rules.

Article 8890, Sec. 14(a)  
"...the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a license...if it finds that...a licensee:

(5) 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 law;

III.

By presenting false documentation on or about November 8, 1990, during an administrative conference, to account for the disposition of the Wyamine Sulfate in an effort to deceive the Board staff and thereby the public as represented by the Board, Respondent has violated Rule 573.7 of the Rules of Professional Conduct and Section 14(a)(3) of the Veterinary Licensing Act, Article 8890 which state in part:
NO ABUSE OF POSITION OR TRUST

Any veterinarian who uses present or past position, or office of trust, deliberately to create an individual professional advantage, or to coerce, or to deceive the public shall be in violation of the rules of professional conduct.

Article 8890, Sec. 14(a)
"... the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a license ... if it finds that ... a licensee:

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

IV.

By failing to file a change of mailing address with the Board Offices within the required 60 days, Respondent has violated the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 9(b) which states:

Article 8890, Section 9(b)
The Board shall maintain records that contain the name, residence address, and business address of each licensee. Each licensee shall notify the Board of a change of business address or a change of employer, if any, not later than the 60th day after the date on which the change takes effect.

V.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Michael E. Vogt’s Veterinary License under the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 14(a)(3) and (5) which states:

Article 8890, Sec. 14(a)
"... the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a license ... if it finds that ... a licensee:

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

(5) 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 law;

ORDERS

It is therefore ORDERED that License Number 5686 heretofore issued to MICHAEL E. VOGT, D.V.M. by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS be and same is hereby SUSPENDED for a period of FIVE (5) YEARS, with FOUR (4) YEARS, SIX (6) MONTHS BEING PROBATED. The probation is to commence within ninety (90) days from the date of this hearing. Further, Dr. Vogt is ORDERED to pay a Civil Penalty in the sum of $2,500.00, within forty-five (45) days of this hearing, in the form of a cashier’s check.
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 7th day February, 1991, in Houston, Harris 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 7th day of February, 1991.

Robert D. Lewis, D.V.M., President

Date

Mary E. Mainster, D.V.M., Vice-President

Date

Guy A. Sheppard, D.V.M., Secretary

2-7-91

Larry M. Dubuisson, D.V.M., Member

Date

Mrs. Olivia R. Eudaly, Member

2-7-91

Alton F. Hopkins, Jr., D.V.M., Member

Date

Mr. Mike Levi, Member

Date

Fred K. Soifer, D.V.M., Member

2-7-91

Mr. Clark S. Willingham, Member

Date
DOCKETED COMPLAINT NO. 1991-08 - AMENDED

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

vs.

MICHAEL E. VOGT, D.V.M.

TEXAS VETERINARY MEDICAL LICENSE NO. 5686
1990 RENEWAL CERTIFICATE NUMBER 4778

STATEMENT OF UNDERSTANDING


The Probated Suspension will terminate February 6, 1996.

MICHAEL E. VOGT, D.V.M.

DONALD B. WILSON

2-21-91

Date

3-6-91

Date
DOCKETED COMPLAINT NO. 1991-08 - AMENDED

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

vs.

MICHAEL E. VOGT, D.V.M.

COMPLAINT AFFIDAVIT FORM

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

On or about April 16, 1990, Joseph J. Rizzo, 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 MICHAEL E. VOGT, D.V.M., with a Board records address of P. O. Box 998, Weatherford, Parker County, TX 76086, Veterinary License Number 5686, 1990 Renewal Certificate Number 4778, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas Board of Veterinary Medical Examiners, I, Joseph J. Rizzo, do hereby present the following complaint against MICHAEL E. VOGT, D.V.M., who is hereinafter called Respondent.

I.

Respondent ordered, and was shipped, the prescription drug, Wyamine Sulfate, aka Mephentermine Sulfate, from Miller Veterinary Supply Co. as indicated:

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II.

Respondent administered and/or dispensed the Wyamine Sulfate listed in Paragraph I, when not therapeutically indicated and when not necessary or required for the medical care of animals, in that Respondent administered and/or dispensed the drugs as a training aid for horses.

III.

Respondent failed to maintain at his place of business adequate patient records for the disposition of the drug listed in Paragraph I.

IV.

On or about November 8, 1990, an administrative conference between the Respondent and the Board's Executive Director was conducted to further the investigation into this complaint. Respondent presented evidence to the staff, by virtue of a Miller Veterinary Supply Co. form, that indicated "Dr. Mike Vogt" had returned "6 Wyamine Sulfate" to that
company on "1-19-89". The Miller Veterinary Supply Co. confirmed that the form presented to the Board Staff by the Respondent was not in use by Miller Veterinary Supply on 1-19-89 and that the Company's records do not indicate any credit for the alleged return of the drug. The form was fraudulently prepared and presented to the Executive Director of the Board in an attempt by the Respondent to account for disposition of the drugs.

V.

Respondent previously maintained a business address of 2300 Grayson Drive, #1024, Grapevine, TX. On or about May 29, 1990, Respondent filed a change of address with the U. S. Post Office in Grapevine, Texas, requesting a forwarding address of P. O. Box 12697, Kansas City, KS 66112. As of September, 1990, Respondent had not filed a change of address with the Board Offices.

VI.

By administering and/or dispensing the drug listed in Paragraph I when not therapeutically indicated and when not necessary or required for the medical care of animals, as described in Paragraph II, Respondent has violated Rule 573.41 of the Rules of Professional Conduct and the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 14(a)(5) which states:

573.41 USE OF PRESCRIPTION DRUGS

(a.) It is unprofessional conduct for a licensed veterinarian to prescribe or dispense, deliver, or order delivered any prescription drug without first having established a veterinary/client/patient relationship by having personally examined the individual animal, herd, or a representative segment or a consignment lot thereof and determined that such prescription drug is therapeutically indicated following said examination. Prescription drugs include all controlled substances in Schedules I thru V and Legend Drugs which bear the federal legends, recognized as such by any law of the State of Texas or of the United States.

(b.) It shall be unprofessional and a violation of the Rules of Professional Conduct for a licensed veterinarian to prescribe, provide, obtain, order, administer, possess, dispense, give or deliver to or for any person prescription drugs, that are not necessary or required for the medical care of animals, or where the use or possession of such drugs would promote addiction thereto. Prescription drugs are defined in subsection (a.) of this section.

Article 8890, Sec. 14(a)
"... the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a license ... if it finds that ... a licensee:

(5) 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 law;
VII.

Through failure to maintain adequate patient records, as described in Paragraph III, to substantiate the use of the Wyamine Sulfate received as reflected in Paragraph I, Respondent has violated Rule 573.52 of the Rules of Professional Conduct and the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 14(a)(5) which state:

573.52 PATIENT RECORD KEEPING

(a.) Individual records will be maintained at the place of business and include, but are not limited to, identification of patient, patient history, including immunization records, dates of visits, x-rays, name and dosages of medications administered and/or dispensed, and other details as necessary to substantiate diagnosis and treatment.
(b.) Patient records shall be current and maintained on the business premises for a period of three years and are the responsibility and property of the employing veterinarian.

(c.) When appropriate, licensees may substitute the words "herd", "flock" or other collective term in place of the word "patient" in subsections (a.) and (b.) of this section. Records to be maintained on these animals may be kept in a daily log, or the billing records, provided that the treatment information that is entered is adequate to substantiate the identification of these animals and the medical care provided. In no case does this eliminate the requirement to maintain drug records as specified by state and federal law and Board rules.

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(5) 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 law;

VIII.

By presenting false documentation to account for the disposition of the drugs, and by attempting to deceive the Board staff, and the public as represented by the Board, regarding the disposition of the drugs as described in Paragraph IV, Respondent has violated Rule 573.7 of the Rules of Professional Conduct and Section 14(a)(3) of the Veterinary Licensing Act, Article 8890 which state in part:

573.7 NO ABUSE OF POSITION OR TRUST
Any veterinarian who uses present or past position, or office of trust, deliberately to create an individual professional advantage, or to coerce, or to deceive the public shall be in violation of the rules of professional conduct.
Article 8890, Sec. 14(a)
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IX.

By failing to file a change of mailing address with the Board Offices within the required 60 days, Respondent has violated the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 9(b) which states:

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X.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Michael E. Vogt's Veterinary License under the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 14(a)(3) and (5) which state:

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

(5) 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 law;

The foregoing AMENDED complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 3rd day of December, 1990.

Further, Affiant sayeth not.

JOSEPH J. RIZZO, Affiant
SUBSCRIBED and SWORN TO before me by the said JOSEPH J. RIZZO, this the 13th day of December, 1990.

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

JUDY C. SMITH
Notary Public in and for Texas

My Commission Expires: September 13, 1993

The foregoing AMENDED 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. MICHAEL E. VOGT, D.V.M. under Docketed Number 1991-08-AMENDED, this the 26th day of December, 1990.

MARY E. MAINSTER, D.V.M., Secretary
Texas Board of Veterinary Medical Examiners