DOCKETED COMPLAINT NO. 1991-03

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

vs.

GENE E. WHITE, D.V.M.

TEXAS VETERINARY MEDICAL LICENSE NO. 2460
1990 RENEWAL CERTIFICATE NUMBER 1810

FINDINGS, CONCLUSIONS AND ORDERS OF THE BOARD

On the 4th day of October, 1990, the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting at the Wyndham Hotel, 4140 Governor’s Row, Austin, Travis 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, Defendant, the said GENE E. WHITE, 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. Fred K. Soifer, President of Houston, TX
Dr. Robert D. Lewis, Vice President of Elgin, TX
Dr. Mary E. Mainster, Secretary of San Antonio, TX
Dr. Larry M. Dubuisson, Member of Weslaco, TX
Ms. Olivia Eudaly, Member of Fort Worth, TX
Dr. Alton F. Hopkins, Jr., Member of Dallas, TX
Mr. Mike Levi, Member of Spicewood TX
Dr. Guy A. Sheppard, Member of San Angelo, TX
Mr. Clark S. Willingham, Member of Dallas, TX

At the appointed hour, the President of the Board, DR. FRED K. SOIFER ordered the case to proceed at which time it was ascertained that GENE E. WHITE, D.V.M. was present, and represented by Mr. Tom McClanndon, legal counsel; the Board then proceeded to hear the evidence presented by the State, and on the same day, October 4, 1990 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.

GENE E. WHITE, D.V.M. is a doctor of veterinary medicine, licensed to practice veterinary medicine in the State of Texas under License Number 2460, and 1990 Renewal Certificate Number 1810.

II.

Dr. White received notice of this hearing on or about September 12, 1990.
III.
Respondent ordered, and was shipped, the Prescription Drug, Wyamine Sulfate, aka mephentermine sulfate, from Miller Veterinary Supply Co. as indicated:

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

V.
On October 1, 1987, Respondent entered into a Negotiated Settlement with the Board in Docketed Case No. 1987-22 in which the allegations included failure to establish accountability of Scheduled Drugs; dispensing Scheduled Drugs when not medically indicated; failure to utilize Triplicate Prescriptions when dispensing Schedule II Drugs and failure to maintain adequate drug records. In the Settlement Respondent agreed to a five year suspension with all but 90 days probated; surrender his Schedule II and IIN DEA and DPS Drug Certificates; pay a civil penalty of $2,500.00, sit for the Jurisprudence Exam; obtain 15 hours of continuing education annually during the probationary period; submit quarterly reports certifying compliance with the Agreement and abide by the laws and rules of the State of Texas as they relate to the practice of veterinary medicine.

CONCLUSIONS OF LAW

I.
Through failure to maintain adequate patient records, as described in Paragraph IV, to substantiate the use of the 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;

II.

By engaging in the activities set forth in Paragraphs V, Respondent has violated the Negotiated Settlement reached in lieu of a hearing in Docketed Case No. 1987-22, Respondent has violated Rule 573.4 of the Rules of Professional Conduct and the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 14(a)(3) and (5) which state:

573.4 ADHERENCE TO THE LAW

No veterinarian shall render any service or advice involving disloyalty to the law. A veterinarian must also observe and advise clients to observe the law.

**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;

III.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Gene E. White'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.

**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 2460 heretofore issued to GENE E. WHITE, D.V.M. by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS be and same is hereby suspended for two years, all probated, to run consecutive to current five year probation, with a termination date of October 1, 1995. It is further ORDERED that GENE E. WHITE, D.V.M. obtain fifteen (15) hours of continuing education each year of probation; abide by the laws and rules of the State of Texas as they pertain to veterinary medicine; submit quarterly reports to the Board during the probationary period certifying compliance with this Order and pay a civil penalty in the sum of $1,000.00.
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 ___ day October, 1990, in Austin, Travis 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 ___ day of October, 1990.

Fred R. Spiller, D.V.M., President

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

Mary E. Mainster, D.V.M., Secretary

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

Mrs. Olivia R. Eudaly, Member

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

Mr. Mike Levi, Member

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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:

In or about April, 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 GENE E. WHITE, D.V.M., Mid-Cities Animal Hospital, 716 West Euless Blvd., Euless, Tarrant County, Texas, Veterinary License Number 2460, 1990 Renewal Certificate Number 1810, 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 GENE E. WHITE 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 dispensed and/or administered the Prescription Drugs listed in Paragraph I when not therapeutically indicated and when not necessary or required for the medical care of animals, in that Respondent dispensed the drugs to horse trainers, as a training aid.

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 October 1, 1987, Respondent entered into a Negotiated Settlement with the Board in Docketed Case No. 1987-22 in which the allegations included failure to establish accountability of Scheduled Drugs; dispensing Scheduled Drugs when not medically indicated; failure to utilize Triplicate Prescriptions when dispensing Schedule II Drugs and failure to maintain adequate drug records. In the Settlement
Respondent agreed to a five year suspension with all but 90 days probated; surrender his Schedule II and IIN DEA and DPS Drug Certificates; pay a civil penalty of $2,500.00, sit for the Jurisprudence Exam; obtain 15 hours of continuing education annually during the probationary period; submit quarterly reports certifying compliance with the Agreement and abide by the laws and rules of the State of Texas as they relate to the practice of veterinary medicine.

V.

By dispensing and/or administering 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;

VI.

Through failure to maintain adequate patient records, as described in Paragraph III, to substantiate the use of the 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:
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(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:

VII.

By engaging in the activities set forth in Paragraphs II and III, Respondent has violated the Negotiated Settlement reached in lieu of a hearing in Docketed Case No. 1987-22 as described in Paragraph IV, Respondent has violated Rule 573.4 of the Rules of Professional Conduct and the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 14(a)(3) and (5) which state:

573.4 ADHERENCE TO THE LAW

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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;

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 4th day of September, 1990.

Further, Affiant sayeth not.

JOSEPH J. RIZZO, Affiant

SUBSCRIBED and SWORN TO before me by the said JOSEPH J. RIZZO, this the 4th day of September, 1990.

JUDY C. SMITH
Notary Public in and for Texas

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. GENE E. WHITE, D.V.M. under Docketed Number 1991-03, this the 14th day of September, 1990.

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