DOCKETED COMPLAINT NO. 1988-11

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

vs.

SIDNEY THOMAS ZARGES, D.V.M.

TEXAS VETERINARY MEDICAL LICENSE NO. 1964
1987 RENEWAL CERTIFICATE NUMBER 1580

FINDINGS, CONCLUSIONS AND ORDERS OF THE BOARD

On the 4th day of February, 1988 the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting at the Westin Hotel, El Paso, El Paso 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 Sidney Zarges, 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. W. L. "DUB" ANDERSON, President of Addison, TX
MR. JIM F. HUMPHREY, Vice-President of Henrietta, TX
DR. FRED K. SOIFER, Secretary of Houston, TX
DR. LARRY M. DUBUISSON, Member of Weslaco, TX
MRS. OLIVIA R. EUDALY, Member of Crowley, TX
MR. MIKE LEVI, Member of Spicewood, TX
DR. ROBERT D. LEWIS, Member of Elgin, TX
DR. MARY E. MAINSTER, Member of San Antonio, TX
DR. EDWARD S. MURRAY, Member of Spur, TX

At 9:00 a.m., the appointed hour, the President of the Board, DR. W. L. "Dub" Anderson ordered the case to proceed at which time it was ascertained that Sidney T. Zarges, D.V.M. was present in person and represented by Mr. Bob Armstrong; the Board then proceeded and on the same day, February 4, 1988, 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.

SIDNEY T. ZARGES, D.V.M. is a doctor of veterinary medicine, licensed to practice veterinary medicine in the State of Texas under License Number 1964, 1987 Renewal Certificate Number 1580.
II.

Dr. Zarges received notice of this hearing on or about January 19, 1988.

III.

The Respondent has failed to maintain, at his place of business, adequate drug records for RITALIN, aka Methylphenidate Hydrochloride, a Schedule II drug which was ordered on the following DEA Form 222:

<table>
<thead>
<tr>
<th>QUANTITY</th>
<th>STRENGTH</th>
<th>DATE OF ORDER</th>
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<th>ORDER NO.</th>
</tr>
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<tbody>
<tr>
<td>2 x 100 tabs</td>
<td>20 mg.</td>
<td>Dec. 14, 1984</td>
<td>Dec. 15, 1984</td>
<td>F22207272</td>
</tr>
<tr>
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<td>20 mg.</td>
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<td>March 20, 1985</td>
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<tr>
<td>2 x 100 tabs</td>
<td>20 mg.</td>
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<td>L15505153</td>
</tr>
<tr>
<td>1 x 100 tabs</td>
<td>20 mg.</td>
<td>June 15, 1987</td>
<td>June 15, 1987</td>
<td>R08812277</td>
</tr>
<tr>
<td>900 tablets</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

IV.

The Respondent has failed to maintain at his place of business any drug records for Desoxyn, aka Methamphetamine Hydrochloride, a Schedule II drug ordered on the following DEA 222 form:

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<tr>
<th>QUANTITY</th>
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<th>DATE SHIPPED</th>
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</tr>
</thead>
<tbody>
<tr>
<td>100 tabs</td>
<td>15 mg.</td>
<td>Dec. 14, 1984</td>
<td>Unknown</td>
<td>F22207272</td>
</tr>
</tbody>
</table>

V.

The Respondent failed to utilize Triplicate prescriptions when dispensing the controlled substances listed in Findings III and IV as required by Article 4476-15, V.A.C.S., the Texas Controlled Substances Act, Section 30.9.

VI.

The Respondent failed to maintain adequate patient records to substantiate use of the controlled substances Ritalin described in Finding III of this complaint.

CONCLUSIONS OF LAW

I.

The Respondent's failure to maintain adequate records on the controlled substances listed in Findings III and IV, constitutes a violation of 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 probabilng the license of any practitioner of veterinary medicine.

II.
The Respondent's failure to maintain records at his place of business on the controlled substances listed in Findings III and IV, constitutes a violation of 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 Drug(s)
F. Diagnosis
G. Balance on Hand

III.
Failure to utilize Triplicate Prescriptions when dispensing the controlled substances listed in Findings III and IV, as required by Article 4476-15, V.A.C.S., the Controlled Substances Act, Section 30.9, constitutes a violation of the Veterinary Practice Act, Article 7465a, Section 14(c) and (e) which state:

Article 7465a, Section 14(c), 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."
TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS
1946 South IH-35, Box 113
Austin, Texas 78745

DOCKET NUMBER 1988-11
SIDNEY ZARGES, D.V.M.
LICENSE NUMBER: 1964

NEGOTIATED SETTLEMENT

This negotiated settlement has been entered by agreement between Dr. Zarges, his
attorney Mr. Robert Armstrong, the Texas State Board of Veterinary Medical Examiners
staff in concurrence with the Board Secretary. It is presented to the Board as a
recommendation only. If the Board elects to reject or amend this negotiated settlement
the defendant, Dr. Zarges, will be granted a continuance at his option.

Dr. Zarges denies the allegations set forth in the complaint but will not contest them in
order to effect this settlement. He understands that by so stating, he is not admitting
the truth of the allegations, but is merely agreeing that the Board may enter an order
approving this negotiated settlement without the necessity of receiving evidence in
support there of. All parties agree that nothing here in contained is an admission of
guilt and that this settlement is a means of resolving the disputes arising as a result
of Docketed Complaint # 1988-11.

SUMMARY OF CHARGES:

Failure to maintain adequate records at his place of business for controlled substances
and failure to utilize Triplicate Prescriptions when dispensing and/or administering
Controlled Substances.

RECOMMENDED DISCIPLINARY ACTION:

1. Surrender Controlled Substances Certificates to be reinstated at the discretion of
   the Board.

2. Take and pass the State Board Jurisprudence Examination prior to reinstatement
   of Controlled Substances Certificates.

3. Pay a civil penalty of $500.00.

CONDITIONS:

1. Obtain 15 hours of continuing education within one year of this Agreement.

2. Abide by the laws and rules of the State of Texas as they pertain to the practice of
   veterinary medicine.

[Signature]
SIDNEY ZARGES, D.V.M.

[Signature]
Donald B. Wilson, Executive Director
TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

[Signature]
Witness

R. L. Armstrong
FINDINGS, CONCLUSIONS AND ORDERS OF THE BOARD

On the 4th day of February, 1988 the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting at the Westin Hotel, El Paso, El Paso 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 Sidney Zarges, 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. W. L. "DUB" ANDERSON, President of Addison, TX
MR. JIM F. HUMPHREY, Vice-President of Henrietta, TX
DR. FRED K. SOIFER, Secretary of Houston, TX
DR. LARRY M. DUBUISSON, Member of Weslaco, TX
MRS. OLIVIA R. EUDALY, Member of Crowley, TX
MR. MIKE LEVI, Member of Spicewood, TX
DR. ROBERT D. LEWIS, Member of Elgin, TX
DR. MARY E. MAINSTER, Member of San Antonio, TX
DR. EDWARD S. MURRAY, Member of Spur, TX

At 9:00 a.m., the appointed hour, the President of the Board, DR. W. L. "Dub" Anderson ordered the case to proceed at which time it was ascertained that Sidney T. Zarges, D.V.M. was present in person and represented by Mr. Bob Armstrong; the Board then proceeded and on the same day, February 4, 1988, 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:

I.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Zarges' veterinary license under the Texas Veterinary Licensing Act, Article 7465a, V.A.T.C.S., Section 7(b) and Sections 14(c) and (e) 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, cancelling, 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."

**ORDERS**
Dr. Zarges denies the allegations set forth in the complaint but will not contest them in order to effect this settlement. He understands that by so stating, he is not admitting the truth of the allegations, but is merely agreeing that the Board may enter an order approving this negotiated settlement without the necessity of receiving evidence in support thereof. All parties agree that nothing herein contained is an admission of guilt and that the settlement is a means of resolving the disputes arising as a result of Docketed Complaint No. 1988-11. A majority of the Board voted to accept the Negotiated Settlement (attached) and Dr. Zarges is to surrender his Controlled Substances Certificates (DEA & DPS) to be reinstated at the discretion of the Board. In addition, Dr. Zarges is to take and pass the State Board Jurisprudence Examination prior to reinstatement of his Controlled Substances Certificates and pay a civil penalty of $500.00. Further, Dr. Zarges is to obtain 15 hours of continuing education within one year of the Negotiated Settlement and abide by the laws and rules of the State of Texas as they pertain to the practice of veterinary medicine.
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 4th day February, 1988, in El Paso, El Paso 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 4th day of February, 1988.

[Signatures]

[Signature: W. L. "Dub" Anderson, D.V.M., President]
[Signature: Jim F. Humphrey, Vice-President]
[Signature: Fred K. Soifer, D.V.M., Secretary]
[Signature: Larry M. Dubuisson, D.V.M., Member]
[Signature: Olivia R. Eudaly, Member]
[Signature: Mike Levi, Member]
[Signature: Robert D. Lewis, D.V.M., Member]
[Signature: Mary E. Mainster, D.V.M., Member]
[Signature: Edward S. Murray, D.V.M., Member]
TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS  
1946 South IH-35, Box 113  
Austin, Texas  78745  

DOCKET NUMBER 1988-11  
SIDNEY ZARGES, D.V.M.  
LICENSE NUMBER: 29767  

NEGOTIATED SETTLEMENT

This negotiated settlement has been entered by agreement between Dr. Zarges, his attorney Mr. Robert Armstrong, the Texas State Board of Veterinary Medical Examiners staff in concurrence with the Board Secretary. It is presented to the Board as a recommendation only. If the Board elects to reject or amend this negotiated settlement the defendant, Dr. Zarges, will be granted a continuance at his option.

Dr. Zarges denies the allegations set forth in the complaint but will not contest them in order to effect this settlement. He understands that by so stating, he is not admitting the truth of the allegations, but is merely agreeing that the Board may enter an order approving this negotiated settlement without the necessity of receiving evidence in support thereof. All parties agree that nothing here in contained is an admission of guilt and that this settlement is a means of resolving the disputes arising as a result of Docketed Complaint # 1988-11.

SUMMARY OF CHARGES:

Failure to maintain adequate records at his place of business for controlled substances and failure to utilized Triplicate Prescriptions when dispensing and/or administering Controlled Substances.

COMMENDED DISCIPLINARY ACTION:

1. Surrender Controlled Substances Certificates to be reinstated at the discretion of the Board.

2. Take and pass the State Board Jurisprudence Examination prior to reinstatement of Controlled Substances Certificates.

3. Pay a civil penalty of $500.00.

CONDITIONS:

1. Obtain 15 hours of continuing education within one year of this Agreement.

2. Abide by the laws and rules of the State of Texas as they pertain to the practice of veterinary medicine.

[Signature]  
SIDNEY ZARGES, D.V.M.

[Signature]  
Donald B. Wilson, Executive Director  
TEXAS BOARD OF VETERINARY  
MEDICAL EXAMINERS

[Signature]  
Witness
TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS  I  TEXAS VETERINARY MEDICAL LICENSE NO. 1964

vs.  I  1987 RENEWAL CERTIFICATE NUMBER 1580

SIDNEY THOMAS ZARGES, D.V.M.

COMPLAINT AFFIDAVIT FORM

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

"I, 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 SIDNEY T. ZARGES, D.V.M., Zarges Animal Clinic, 5820 Doniphan Drive, El Paso, El Paso County, Texas, Texas Veterinary License Number 1964, 1987 Renewal Certificate Number 1580, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas Board of Veterinary Medical Examiners, I, THOMAS CHESHIRE, do hereby present the following complaint against SIDNEY T. ZARGES, D.V.M., who is hereinafter called Respondent.

I.

Respondent has failed to maintain, at his place of business, adequate drug records for RITALIN, aka Methylphenidate Hydrochloride, a Schedule II drug which was ordered on the following DEA Form 222:

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II.

Respondent has failed to maintain at his place of business any drug records for Desoxyn, aka Methamphetamine Hydrochloride, a Schedule II drug ordered on the following DEA 222 form:

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</table>
III.
Respondent failed to utilize Triplicate prescriptions when dispensing the controlled substances listed in Paragraphs I and II as required by Article 4476-15, V.A.C.S., the Texas Controlled Substances Act, Section 30.9.

IV.
Respondent failed to maintain adequate patient records to substantiate use of the controlled substances described in Paragraph II of this complaint.

V.
Respondent dispensed and/or administered the Schedule II drugs at Sunland Park, and/or Albuquerque and/or Pueblo Downs Race Tracks in New Mexico. Respondent does not have a DEA Certificate with a registered address for any of these facilities as required by the Code of Federal Regulations, Title 21, Section 1301.23.

VI.
Respondent's failure to maintain adequate records on the controlled substances listed in Paragraphs I and II, constitutes a violation of 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.

VII.
Respondent's failure to maintain records at his place of business on the controlled substances listed in Paragraphs I and II, constitutes a violation of 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:
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G. Balance on Hand

VIII.
Failure to utilize Triplicate Prescriptions when dispensing the controlled substances listed in Paragraphs I and II, as required by Article 4476-15, V.A.C.S., the Controlled Substances Act, Section 30.9, constitutes a violation of the Veterinary Practice Act, Article 7465a, Section 14(c) and (e) which state:

Article 7465a, Section 14(c), 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."

IX.
Failure to utilize Triplicate Prescriptions when dispensing the controlled substances listed in Paragraph I, as required by Article 4476-15, V.A.C.S., the Controlled Substances Act, Section 30.9, constitutes a violation of the Rule 5 of the Rules of Professional Conduct which states:

Rule 5
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.
X.

Prescribing the Schedule II drugs listed in Paragraph II, without maintaining adequate patient records constitutes a violation of 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.

XI.

Respondents failure to maintain a registered address with DEA for dispensing and/or administering Schedule II drugs in New Mexico is in violation of the Code of Federal Regulations, Title 21 Foods and Drugs, Section 1301.23 and therefore in violation of Article 7465a, Veterinary Practice Act, Section 14(c) which states in part:

Article 7465a, Section 14(c), 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."

XII.

Respondents failure to maintain a registered address with DEA for dispensing and/or administering Schedule II drugs in New Mexico is in violation of the Code of Federal Regulations, Title 21 Foods and Drugs, Section 1301.23 and therefore in violation of Rule 5 of the Rules of Professional Conduct which states:

Rule 5
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.
XIII.

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

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(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 18th day of December, 1987.

Further, Affiant sayeth not.

[Signature]
THOMAS CSHIRE, Affiant

SUBSCRIBED and SWORN TO before me by the said THOMAS CSHIRE, this the 18th day of December, 1987.

[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. SIDNEY T. ZARGES, D.V.M. under Docket Number 1988-11, this the __ day of December, 1987.

FRED K. SOIFER, D.V.M., Secretary
Texas State Board of Veterinary Medical Examiners