DOCKET NO. 2008-38

IN THE MATTER § TEXAS STATE BOARD OF

OF THE LICENSE OF §

VIRGINIA S. ZARGES, D.V.M. § VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this, the 19th day of June, 2008, came on to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of VIRGINIA S. ZARGES, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on April 18, 2008. The Respondent was represented by counsel, Darren Powell. The Board was represented at the conference by the Board's Enforcement Committee.

Respondent, without admitting the truth of the findings and conclusions set out in this Agreed Order, wishes to waive a formal adjudicative hearing and thereby informally dispose of the issues without a formal adjudication. Respondent agrees to comply with the terms and conditions set forth in this Order. In waiving an adjudicative hearing, Respondent acknowledges their understanding of the alleged violations and the adequacy and sufficiency of the notice provided to them.

Upon the recommendation of the Enforcement Committee and with Respondent’s consent, the Board makes the following Findings of Fact and Conclusions of Law and enters this Agreed Order as set forth below.

Findings of Fact

1. The Board has jurisdiction over the subject matter and Respondent. Respondent has received all notice which may be required by law and by the Board’s rules. All jurisdictional requirements have been satisfied.

2. As the result of a compliance inspection by mail, the Board determined that Virginia S. Zarges, D.V.M., of the Zarges Animal Clinic, El Paso, Texas, allowed Dr. Sidney T. Zarges to use, with written authorization, her Drug Enforcement Administration (DEA) controlled substances registration certificate to administer controlled substances. Dr. Virginia Zarges had knowledge of Dr. Sidney T. Zarges’ felony conviction under the Texas Controlled Substances Act in 1990. Dr. Sidney Zarges was convicted of unlawfully, knowingly and intentionally causing another person to furnish false material information on a record, which he was required to maintain as a registrant under Subsection II of the Texas Controlled Substances Act. Dr. Sidney Zarges is unable to possess a Texas Department of Public Safety (DPS) registration for controlled substances due to his felony conviction under the Controlled Substances Act. Dr. Sidney Zarges’ DEA and DPS registrations were revoked in 1990. On November 3, 1992, TBVME reinstated Dr. Sidney Zarges’ veterinary license. Within the order, Dr. Sidney Zarges produced testimony that he is not requesting, nor does
he desire to have his DEA and/or DPS Controlled Substances Registration Certificates reinstated. Under the same order, Dr. Sidney Zarges may not apply for his DEA or DPS registration.

3. Dr. Sidney Zarges admitted he administers the following controlled substances: Ketaset, Torbugesic and Sleepaway. Dr. Sidney Zarges has administered controlled substances since 1997, according to the Zarges Animal Clinic controlled substance logbook. Dr. Sidney Zarges was not registered with DPS while he administered controlled substances using Dr. Virginia Zarges’ DEA registration. Dr. Virginia Zarges is the wife of Dr. Sidney Zarges.

Conclusions of Law

1. Respondent is required to comply with the provisions of the Veterinary Licensing Act, Chapter 801, Texas Occupations Code, and with the Board’s rules.

2. Based on Findings of Fact 1 through 3, Respondent has violated Rule 573.4, ADHERENCE TO THE LAW, of the Board’s Rules of Professional Conduct, which states that a licensee may not commit any act that is in violation of the laws of the State of Texas, other states, or of the United States, by providing Dr. Sidney Zarges authorization to dispensing controlled substances under her DEA registration after Dr. Sidney Zarges’ DEA and DPS registration had been revoked.

3. Based on Findings of Fact 1 through 3, Respondent has violated Rule 573.61, MINIMUM SECURITY FOR CONTROLLED SUBSTANCES, of the Board’s Rules of Professional Conduct, which states that a licensee shall adhere to DPS laws concerning security of controlled substances including, establishing adequate security to prevent unauthorized access to controlled substances. Dr. Virginia Zarges did not properly ascertain whether Dr. Sidney Zarges had authorized access to controlled substances before allowing Dr. Sidney Zarges to use her DEA registration without his DPS registration.

4. Based on Conclusions of Law 1 through 3, Respondent has violated Section 801.402 (6) of the Veterinary Licensing Act, Texas Occupations Code, and is subject to disciplinary action by the Board:

801.402. GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. A person is subject to denial of a license or to disciplinary action under Section 801.401 if the person:

(6) engages in practices or conduct that violates the board's rules of professional conduct.

5. Based on Conclusions of Law 2 through 4, Respondent may be disciplined in the manner set out in Section 801.451, IMPOSITION OF ADMINISTRATIVE PENALTY, of the Veterinary Licensing Act, which authorizes an administrative penalty for violations of the Act and Board rules, and in the
manner set out in Section 801.401 DISCIPLINARY POWER OF BOARD.

NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Virginia S. Zarges, D.V.M., be FORMALLY REPRIMANDED.

The Board ORDERS that Respondent's license be SUSPENDED for a period of five (5) years, with said SUSPENSION STAYED for all five (5) years. Respondent's license will be SUSPENDED from the date of this ORDER and continuing for five (5) years. Respondent will be placed on PROBATION beginning on the date of this ORDER and continuing for the remainder of the five (5) year period. During the period of PROBATION, Respondent may practice veterinary medicine so long as during the five (5) year period of SUSPENSION, Respondent shall not violate Board Rule 573.4, or 573.61. In addition, Sidney Zarges, D.V.M., shall not be present on the premises of Zarges Animal Clinic, El Paso, Texas. At the end of the five (5) year period, the PROBATION shall be lifted and Respondent may practice veterinary medicine, assuming that all conditions of the ORDER have been met.

The Board further ORDERS that:

1. Respondent shall abide by the Rules of Professional Conduct, the Texas Veterinary Licensing Act and the laws of the State of Texas and the United States.

2. Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this order.

3. Failure by Respondent to comply with the terms of this Agreed Order or with any other provision of the Act or the Board Rules, may result in further disciplinary action.

Respondent, by signing this Agreed Order, acknowledges their understanding of the Agreed Order, the notice, Findings of Fact and Conclusions of Law herein set forth, and agrees that they will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary action by the Board.

Respondent, by signing this Agreed Order, waives their right to a hearing and any right to seek judicial review of this Order. Respondent acknowledges that they are entitled to be represented by an attorney of Respondent's choice at their expense in any hearing before the Board.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED
ORDER. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR UNDER THE UNITED STATES OR TEXAS CONSTITUTIONS TO APPEAL AN ORDER OR ACTION OF THE BOARD SUBSEQUENT TO THIS AGREED ORDER EXCEPT AS RESPONDENT MAY HAVE OTHERWISE AGREED TO HEREIN. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

The date of this Agreed Order shall be the date it is adopted by the Texas Board of Veterinary Medical Examiners.

I, VIRGINIA S. ZARGES, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THAT THIS ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

Virginia S. Zarges, D.V.M.  
May 14, 2008

STATE OF TEXAS  
COUNTY OF El Paso

BEFORE ME, on this day, personally appeared Virginia S. Zarges, D.V.M., known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me that they executed the same for the purposes stated therein.

Given under the hand and seal of office this 14th day of May, 2008

Notary Public

MICHELLE PINALES  
Notary Public, State of Texas  
My Commission Expires September 22, 2010
SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the __th day of ____, 2008.

[Signature]

President of the Board