

DOCKETED COMPLAINT NO. 1987-16

TEXAS STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

vs.

ADALBERTO GARZA, JR., D.V.M.

I
I
I
I

TEXAS VETERINARY MEDICAL
LICENSE NO. 4516
1987 RENEWAL CERTIFICATE
NUMBER 0315

FINDINGS, CONCLUSIONS, AND ORDERS OF THE BOARD

On the 11th day of June, 1987, the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting at the Wyndham Southpark, 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 and Defendant, the said ADALBERTO GARZA, JR., 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	of Pearsall, TX
DR. W. L. "DUB" ANDERSON, Secretary	of Addison, TX
MR. JIM F. HUMPHREY, Member	of Henrietta, TX
MR. MIKE LEVI, Member	of Spicewood, TX
DR. MARY E. MAINSTER, Member	of San Antonio, TX
DR. FRANK E. MANN, JR., Member	of Wharton, TX
DR. FRED K. SOIFER, Member	of Houston, TX

At 9:30 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 ADALBERTO GARZA, D.V.M. was present in person; the Board then proceeded to hear the evidence presented by the State, and by ADALBERTO GARZA, D.V.M. and on the same day, June 11, 1987, 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.

ADALBERTO GARZA, JR., D.V.M. is a doctor of veterinary medicine, licensed to practice veterinary medicine in the State of Texas under License Number 4516, 1987 Renewal Certificate Number 0315.

II.

ADALBERTO GARZA, JR., D.V.M. received notice of this hearing on or about May 20, 1987.

III.

ADALBERTO GARZA, JR., D.V.M. has failed to maintain at his place of business, adequate drug records for 3,800 tablets of Ritalin (20 mg.), (Methylphenidate Hydrochloride); 200 tablets of Methylphenidate (20 mg.); 200 milliliters of Dilaudid (Hydromorphone HCL) all of which are Schedule II drugs and all of which were ordered through DEA Forms 222, order form numbers 850185829, 850185838, 850185841, 850185830 and 850185832.

IV.

ADALBERTO GARZA, D.V.M. routinely dispensed the drugs described in Findings Paragraph III to JAIME HUMBERTO LIMAS LOREDO, a veterinarian licensed in Mexico, hired by DR. GARZA, to care for horses jointly owned by Drs. Garza and Limas and stabled in Mexico by Dr. Garza, and that the Ritalin was dispensed for the purpose of correcting adverse behavior through the drug's analgesic properties.

V.

ADALBERTO GARZA, JR., D.V.M. failed to utilize a Triplicate Prescription form as prescribed by the Texas Controlled Substances Act when dispensing drugs described in Findings Paragraph III.

CONCLUSIONS OF LAW

I.

DR. GARZA's failure to maintain records on controlled substances at his place of business, constitutes a violation of Rule 30 of the Rules of Professional Conduct and/or Article 7465a, Section 7(b) of the Veterinary Practice Act which state:

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

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.

DR. GARZA's dispensing of the drugs described in Findings Paragraph III for medically unsound reasons constitutes a violation of 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.

III.

DR. GARZA's failure to utilize Triplicate Prescription forms as required under the Controlled Substances Act, constitutes violation of Rule 5 of the Rules of Professional Conduct 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.

IV.

The Texas Veterinary Licensing Act, Article 7465a, Vernon's Annotated Texas Statutes, Sections 7(b) and 14(e) give the Board grounds to take disciplinary action against DR. GARZA's license, 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.

Article 7465a, Section 14(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:

(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

It is hereby ORDERED that Texas Veterinary License No. 4516, heretofore issued to ADALBERTO GARZA, JR., D.V.M., by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS be and same is HEREBY SUSPENDED for a period of five (5) years with the entire period being probated. Dr. Garza will surrender his DEA Controlled Substances Certificate during the five (5) year probated suspension and reinstated at the discretion of the Board. Dr. Garza will obtain 40 hours of continuing education in equine medicine during the period of his probation, as well as perform 100 hours of community service. Further, Dr. Garza will successfully complete the Jurisprudence examination in the Board Offices, the date for same to be determined by Board staff and Dr. Garza. Dr. Garza will abide by the Veterinary Practice Act and Rules of Professional Conduct duly promulgated by the Board and file quarterly reports to the Board verifying compliance with this Order. This Order shall commence July 27, 1987 and terminate July 27, 1992. Quarterly reports will be due on the last day of October, 1987; January, April, July, October, 1988; January, April, July, October, 1989; January, April, July, October, 1990; January, April, July, October, 1991; January, April, July, 1992.

Violation of this Order shall be construed as engaging in dishonest or illegal practices in or connected with the practice of veterinary medicine and constitutes grounds for the Board to take disciplinary action as authorized in Article 7465a, Veterinary Practice Act, Section 14(c).

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 11th day June, 1987, 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 11th day of June, 1987.

Ed B. Avery, D.V.M.
ED B. AVERY, D.V.M., President

June 11, 1987
Date

EDWARD S. MURRAY, D.V.M., Vice-President

June 11, 1987
Date

W. L. "DUB" ANDERSON, D.V.M.
W. L. "DUB" ANDERSON, D.V.M., Secretary

June 11, 1987
Date

Jim F. Humphrey
JIM F. HUMPHREY, Member

June 11, 1987
Date

Mike Levi
MIKE LEVI, Member

June 11, 1987
Date

Mary E. Mainster, DVM
MARY E. MAINSTER, D.V.M., Member

June 11, 1987
Date

Frank E. Mann, Jr., D.V.M.
FRANK E. MANN, JR., D.V.M., Member

June 11, 1987
Date

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

June 11, 1987
Date

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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 DR. ADALBERTO GARZA, JR., D.V.M., Companion Animal Clinic, Box 3242, McAllen, Hidalgo County, Texas, Texas Veterinary License Number 4516, 1987 Renewal Certificate Number 0315, 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 ADALBERTO GARZA, JR., D.V.M., who is hereinafter called Respondent.

I.

ADALBERTO GARZA, JR., D.V.M. has failed to maintain at his place of business, adequate drug records for 3,800 tablets of Ritalin (20 mg.), (Methylphenidate Hydrochloride); 1,200 tablets of Methylphenidate (20 mg.); 200 milliliters of Dilaudid (Hydromorphone HCL) all of which are schedule II drugs and all of which were ordered through DEA Forms 222, order form numbers 850185829, 850185838, 850185841, 850185830 and 850185832, which are attached as Attachment A, and hereby incorporated for all intents and purposes.

II.

ADALBERTO GARZA, D.V.M. routinely dispensed the drugs described in paragraph I to JAIME HUMBERTO LIMAS LOREDO, a veterinarian licensed in Mexico, hired by DR. GARZA, to care for horses jointly owned by Drs. Garza and Limas and stabled in Mexico by Dr. Garza. Ritalin was dispensed for the purpose of correcting adverse behavior through the drug's analgesic properties.

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VII.

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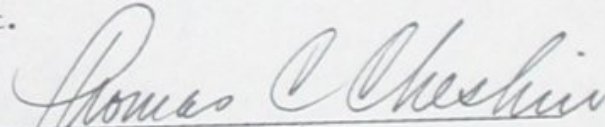
Article 7465a, Section 14(e), Veterinary Licensing Act -

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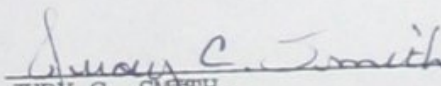
(e) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with the law"

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 1st day of May, 1987.

Further, Affiant sayeth not.


THOMAS CHESHIRE, Affiant

SUBSCRIBED and SWORN TO before me by the said THOMAS CHESHIRE, this the 1st day of May, 1987.


JUDY C. SMITH,
Notary Public in and for Texas

My Commission Expires: September 13, 1989.

See Reverse of PURCHASER'S Copy for Instructions

No order form may be issued for Schedule I and II substances unless a completed application form has been received, (21 CFR 1305.04).

OMB APPROVAL No. 1117-0010

TO: (Name of Supplier)

I. D. E.

STREET ADDRESS

1500 New Horizons Blvd.

CITY and STATE

Amityville, N.Y.

DATE

10-24-86

TO BE FILLED IN BY SUPPLIER

SUPPLIER'S DEA REGISTRATION No.

TO BE FILLED IN BY PURCHASER

LINE NO.	No. of Packages	Size of Package	Name of Item	National Drug Code	TO BE FILLED IN BY SUPPLIER	
					Packages Shipped	Date Shipped
1	10	100 tabs	Ritalin tabs 20mg	00083003430	10/24/86	11/11/86
2	2	100 tabs	Methylphenidate 20mg		2/10/87	11/14/86
3						
4						
5						
6						
7						
8						
9						
10						

2 NO. OF LINES COMPLETED

SIGNATURE OF PURCHASER OR HIS ATTORNEY OR AGENT

Adalberto Garza Jr

Date Issued

10-19-85

DEA Registration No.

AG8948943

Name and Address of Registrant

GARZA, ADALBERTO JR DVM
COMPANION ANIMAL CLINIC
PO BOX 3242
MCALLEN, TX

78501

Schedules

2, 2N, 3, 3N, 4, 5

Registered as a

PRACTITIONER

No. of this Order Form

850185832

DEA Form -222 (Jun 1983)

U.S. OFFICIAL ORDER FORMS - SCHEDULES I & II
DRUG ENFORCEMENT ADMINISTRATION
DEA COPY 2

