

DOCKETED COMPLAINT NO. 1988-2

TEXAS STATE BOARD OF VETERINARY		TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS		LICENSE NO. 3259
vs.		1987 RENEWAL CERTIFICATE
DAVID GUITAR, D.V.M.		NUMBER 3240

FINDINGS, CONCLUSIONS AND ORDERS OF THE BOARD

On the 1st day of October, 1987, the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting at 1946 South IH 35, fourth floor Conference Room, 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 DAVID GUITAR, 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. EDWARD S. MURRAY, Vice-President	of Spur, 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 9:00 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 DAVID GUITAR, D.V.M. was present in person. The Board then proceeded and on the same day, October 1, 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.

DAVID GUITAR, D.V.M. is a doctor of veterinary medicine, licensed to practice veterinary medicine in the State of Texas under License Number 3259, 1987 Renewal Certificate Number 3240.

II.

Dr. Guitar received notice of this hearing on or about September 24, 1987.

III.

DAVID GUITAR, D.V.M. wrote the following prescriptions for nine 30 mg. vials of Talwin, aka Pentazocine Hydrochloride, a Schedule IV drug, as listed below:

<u>DATE</u>	<u>NAME</u>	<u>DRUG</u>	<u>RX. NO.</u>	<u>AMOUNT</u>	<u>STRENGTH</u>
6/2/85	Ms. Walker	Talwin	480527	1-10cc	30 mg.
6/28/85	Ms. Davis	Talwin	480618	1-10ml.	30 mg.
7/1/85	Ms. George Ellis	Talwin	480761	2-10cc	30 mg.
7/2/85	Dana Boggs	Talwin	480838	2-10cc	30 mg.
7/5/85	Dana Boggs	Talwin	480926	2-10cc	30 mg.
7/22/85	Mrs. Geo. Ellis	Talwin	481483	1-10cc	30 mg.

IV.

On July 15, 1987 Dr, Guitar met with Mr. Donald B. Wilson, Executive Director of the Texas Board of Veterinary Medical Examiners where it was determined that Dr. Guitar did not maintain any patient records corresponding to the nine 30 mg. vials of Talwin described in Paragraph III.

V.

On July 15, 1987 Dr, Guitar met with Mr. Donald B. Wilson, Executive Director of the Texas Board of Veterinary Medical Examiners where it was determined that Dr. Guitar did not maintain any controlled substances records corresponding to the nine 30 mg. vials of Talwin described in Paragraph III.

VI.

Dr. Guitar failed to establish a medically sound reason for prescribing the nine vials of 30 mg. Talwin as described in Paragraph III.

VII.

Dr. Guitar failed to establish a patient/veterinary relationship for the prescriptions listed in Paragraph III.

VIII.

Dr. Guitar does not deny that the drugs listed in Paragraph III were obtained by him for his own self-consumption to further a drug addiction condition.

CONCLUSIONS OF LAW

I.

Prescribing Schedule IV drugs as outlined in Paragraph III without maintaining patient records Dr. Guitar has violated 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.

II.

DR. GUITAR failed to maintain records on controlled substances at his place of business which 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.

III.

DR. GUITAR failed to maintain records on controlled substances at his place of business constituting 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

IV.

Prescribing the Talwin listed in Paragraph III for self abuse constitutes prescribing drugs for medically unsound reasons and, therefore, constitutes a violation of Rule 33 of the Rules of Professional Conduct relating to the practice of veterinary medicine in the State of Texas that 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 of 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.

V.

Prescribing Talwin without first establishing a patient/veterinary relationship constitutes a violation of Rule 27 of the Rules of Professional Conduct relating to the Practice which states:

Rule 27

It is unprofessional conduct for a licensed veterinarian to prescribe or dispense, deliver or order delivered any controlled substances without first having established a patient/veterinarian relationship by having personally examined the individual animals, herd, or a representative segment or a consignment lot thereof and determined that such controlled substances is therapeutically indicated following said examination.

VI.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Guitar's veterinary license under the Texas Veterinary Licensing Act, Article 7465a, V.A.T.C.S., Section 7(b) and Sections 14(b), (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(b), (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: (b) is chronically or habitually intoxicated or is addicted to drugs; or (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. Guitar did not contest the allegations, but, instead, accepted a Negotiated Settlement. A majority of the Board voted to accept the Negotiated Settlement (attached) and ORDERED that the Texas Veterinary License No. 3250 heretofore issued to DAVID GUITAR, D.V.M. by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS be and the same is HEREBY SUSPENDED for a period of five (5) years, all probated and effective immediately. Dr. Guitar is to surrender his DEA and DPS Narcotics Certificates to be reinstated at the discretion of the Board. Dr. Guitar is to enter and continue in a prescribed recovery and after-care program in coordination with the TVMA Peer Assistance Program. Dr. Guitar is to abide by the laws and rules of the State of Texas as they relate to the practice of veterinary medicine and provide quarterly status reports to the Board from the Peer Assistance Program Coordinator verifying compliance with this order. These reports are due on the following dates:

Jan. 1, 1988	Jan. 1, 1989	Jan. 1, 1990	Jan. 1, 1991	Jan. 1, 1992
April 1, 1988	April 1, 1989	April 1, 1990	April 1, 1991	April 1, 1992
July 1, 1988	July 1, 1989	July 1, 1990	July 1, 1991	July 1, 1992
Oct. 1, 1988	Oct. 1, 1989	Oct. 1, 1990	Oct. 1, 1991	Oct. 1, 1992

Failure to comply with the Board Orders shall have the effect of vacating the probation and placing License Number 3259 under full suspension.

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 1ST day October, 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 1ST day of October, 1987.

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

10-1-87
Date

Edward S. Murray DVM
EDWARD S. MURRAY, D.V.M., Vice-President

10-1-87
Date

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

10-1-87
Date

Jim F. Humphrey
JIM F. HUMPHREY, Member

10-1-87
Date

Mike Levi
MIKE LEVI, Member

10-1-87
Date

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

10-1-87
Date

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

10-1-87
Date

Fred K. Solfer
FRED K. SOLFER, D.V.M., Member

10-1-87
Date

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS
1946 South IH-35, Box 113
Austin, TX 78704
(512) 447-1183

DOCKET NUMBER 1988-2 - DAVID GUITAR, D.V.M.
LICENSE NUMBER: 3259

NEGOTIATED SETTLEMENT

This negotiated settlement has been entered by agreement between Dr. David Guitar, his attorney Mr. Nicholas Carbajal and 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. Guitar, will be granted a continuance at his/her option.

Dr. Guitar does not contest the allegations set forth in the Complaint and agrees that, accordingly, the Board may treat the allegations of fact and law as true, which findings shall have the same force and effect as if evidence and argument were presented in support of the allegations, and based thereon, the Board found the allegations to be true. Respondent understands and intends that by so stating, he/she is not admitting the truth of the allegations, but is merely agreeing that the Board may enter an Order treating the allegations as true without the necessity of receiving evidence in support thereof.

SUMMARY OF CHARGES:

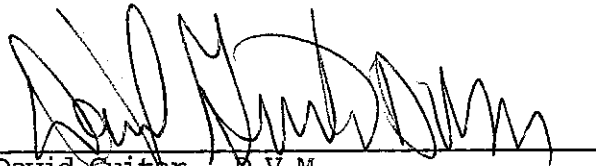
Addiction to Talwin.

RECOMMENDED DISCIPLINARY ACTION:


1. Five year suspension of license, all probated, effective immediately.
2. Surrender DEA and DPS Narcotics Certificates to be reinstated at the discretion of the Board. (This has already been accomplished on July 22, 1987.)


CONDITIONS:

1. Enter and continue in a prescribed recovery and after-care program in coordination with the TVMA Peer Assistance Program.
2. Provide quarterly status reports to the Board from the Peer Assistance Program Coordinator.
3. Failure to comply with the Board Orders shall have the effect of vacating probation and placing License Number 3259 on full suspension.
4. Abide by the laws and rules of the State of Texas as they relate to the practice of veterinary medicine.



David Guitar, D.V.M.


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



Witness

DOCKETED COMPLAINT NO. 1988-2

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MEDICAL EXAMINERS		LICENSE NO. 3259
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DAVID GUITAR, D.V.M.		NUMBER 3240

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 DAVID GUITAR, D.V.M., Stafford Oaks Veterinary Hospital, Drawer U, Stafford, Fort Bend County, Texas, Texas Veterinary License Number 3259, 1987 Renewal Certificate Number 3240, 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 DAVID GUITAR, D.V.M., who is hereinafter called Respondent.

I.

DAVID GUITAR, D.V.M. wrote the following prescriptions for nine 30 mg. vials of Talwin, aka Pentazocine Hydrochloride, a Schedule IV drug, as listed below:

<u>DATE</u>	<u>NAME</u>	<u>DRUG</u>	<u>RX. NO.</u>	<u>AMOUNT</u>	<u>STRENGTH</u>
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II.

On July 15, 1987 Dr, Guitar met with Mr. Donald B. Wilson, Executive Director of the Texas Board of Veterinary Medical Examiners where it was determined that Dr. Guitar did not maintain any patient records corresponding to the nine 30 mg. vials of Talwin described in Paragraph I of this complaint.

III.

On July 15, 1987 Dr, Guitar met with Mr. Donald B. Wilson, Executive Director of the Texas Board of Veterinary Medical Examiners where it was determined that Dr. Guitar did not maintain any controlled substances records corresponding to the nine 30 mg. vials of Talwin described in Paragraph I of this complaint.

IV.

Dr. Guitar failed to establish a medically sound reason for prescribing the nine vials of 30 mg. Talwin as described in Paragraph I of this complaint.

V.

Dr. Guitar failed to establish a patient/veterinary relationship for the prescriptions listed in Paragraph I of this complaint.

VI.

Dr. Guitar does not deny that the drugs listed in Paragraph I were obtained by him for his own self-consumption to further a drug addiction condition.

VII.

Prescribing Schedule IV drugs as outlined in Paragraph I without maintaining 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.

VIII.

DR. GUITAR's failure to maintain records on controlled substances at his place of business constitutes a violation of Article 7465a, Section 7(b) of the Veterinary Practice Act which states:

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- D. Quantity Administered, Dispensed, or Prescribed
- E. Name of Client and Patient receiving Drug(s)
- F. Diagnosis
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X.

Prescribing the Talwin listed in Paragraph I for self abuse constitutes prescribing drugs for medically unsound reasons and, therefore, constitutes a violation of Rule 33 of the Rules of Professional Conduct relating to the practice of veterinary medicine in the State of Texas that states:

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the use of 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.

XI.

Prescribing Talwin without first establishing a patient/veterinary Paragraph V constitutes a violation of Rule 27 of the Rules of Professional Conduct relating to the Practice which states:

Rule 27

It is unprofessional conduct for a licensed veterinarian to prescribe or dispense, deliver or order delivered any controlled substances without first having established a patient/veterinarian relationship by having personally examined the individual animals, herd, or a representative segment or a consignment lot thereof and determined that such controlled substances is therapeutically indicated following said examination.

XII.

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

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" . . . 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: (b) is chronically or habitually intoxicated or is addicted to drugs; or (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."

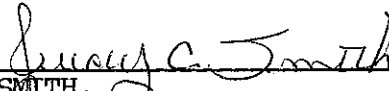
The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 11th day of September, 1987.

Further, Affiant sayeth not.



THOMAS CHESHIRE, Affiant

SUBSCRIBED and SWORN TO before me by the said THOMAS CHESHIRE, this the 11th day of September, 1987.



JUDY C. SMITH,
Notary Public in and for Texas

My Commission Expires: September 13, 1989.

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. DAVID GUITAR, D.V.M. under Docket Number 1988-2, this the 14th day of September, 1987.

W. L. "Dub" Anderson, D.V.M.
W. L. "Dub" Anderson, D.V.M., Secretary
Texas State Board of Veterinary Medical
Examiners