

DOCKETED COMPLAINT NO. 1990-11

TEXAS STATE BOARD OF VETERINARY	()	TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS	()	LICENSE NO. 1376
vs.	()	1990 RENEWAL CERTIFICATE
MAXIE C. HARKINS, D.V.M.	()	NUMBER 0357

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 and Defendant, the said MAXIE E. HARKINS, 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 Maxie C. Harkins, D.V.M. was present, and represented by Mr. Gus E. Meriwether, 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.

MAXIE C. HARKINS, D.V.M. is a doctor of veterinary medicine, licensed to practice veterinary medicine in the State of Texas under License Number 1376, and 1990 Renewal Certificate Number 0357.

II.

Dr. Harkins received notice of this hearing on or about September 17, 1990.

III.

From on/about July 1, 1989 through November 14, 1989 Respondent allowed Crockett Veterinary Supply, Inc. to utilize his veterinary license to purchase dangerous (prescription) drugs, from approximately eleven different pharmaceutical supply companies.

IV.

Respondent knew Crockett Veterinary Supply was then selling the dangerous (prescription) drugs to approximately six veterinarians and to the Texas Dept. of Corrections without the benefit of holding a Texas Department of Health Wholesale Drug Registration.

V.

Respondent failed to maintain proper patient records for the dangerous (prescription) drugs which Respondent allowed Crockett Veterinary Supply, Inc. to sell.

VI.

Respondent did not have a valid veterinary/client/patient relationship with persons receiving dangerous (prescription) drugs from Crockett Veterinary Supply, Inc.

CONCLUSIONS OF LAW

I.

By allowing Crockett Veterinary Supply, Inc., an unlicensed company, to use his veterinary license to order, possess, dispense, and deliver dangerous (prescription) drugs unlawfully, Respondent has violated Rule 573.4.

573.4 ADHERENCE OF THE LAW

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

II.

By knowingly and intentionally causing the delivery of dangerous (prescription) drugs from legitimate pharmaceutical companies to Crockett Veterinary Supply, Inc., which was not authorized to possess and sell dangerous (prescription) drugs, thereby committing a violation of the Dangerous Drugs Act, Article 4476.14, V.A.C.S., Section 3(a), Respondent has violated Rule of Professional Conduct 573.4:

573.4 ADHERENCE OF THE LAW

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

III.

By failing to maintain proper patient records for the dangerous (prescription) drugs which Respondent allowed Crockett Veterinary Supply, Inc. to order by utilizing Respondent's veterinary license and narcotics certificate, Respondent has violated Rule of Professional Conduct 573.52, which states:

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.

IV.

By ordering delivered prescription (dangerous drugs) without having established a veterinary/client/patient relationship, Respondent has violated Rule 573.41, Use of Prescription Drugs:

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.

V.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Maxie Harkins's Veterinary License under the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 14(a)(3), (5), (6), (10) and (12) which state:

Article 8890, Section 14(a), 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"

(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;

(6) has permitted or allowed another to use his license, or certificate to practice veterinary medicine in this state;

(10) has paid or received any kickback, rebate, bonus, or other remuneration for treating an animal or for referring a client to another provider of veterinary services or goods;

(12) has ordered prescription drugs or controlled substances for the treatment of an animal without first establishing a valid veterinary/patient/client relationship.

ORDERS

It is therefore ORDERED that MAXIE C. HARKINS, D.V.M., License Number 1376 heretofore issued by the Texas Board of Veterinary Medical Examiners be Officially Reprimanded and assessed a Civil Penalty in the sum of \$500.00.

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 5th 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 5th day of October, 1990.

Fred K. Scifer
Fred K. Scifer, D.V.M., President

10/5/90
Date

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

10-5-90
Date

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

10/5/90
Date

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

10-5-90
Date

Mrs. Olivia R. Eudaly
Mrs. Olivia R. Eudaly, Member

10-5-90
Date

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

10-5-90
Date

Mike Levi
Mr. Mike Levi, Member

10/5/90
Date

Guy A. Sheppard
Guy A. Sheppard, D.V.M., Member

10-5-90
Date

Not Present
Mr. Clark S. Willingham, Member

10/5/90
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 JOSEPH J. RIZZO, who after being duly sworn, did depose and say:

On or about November 14, 1989, 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 MAXIE C. HARKINS, D.V.M., Crockett Veterinary Hospital, 915 South Fourth Street, Crockett, Houston County, Texas, Veterinary License Number 1376, 1990 Renewal Certificate Number 0357, 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 MAXIE C. HARKINS, D.V.M., who is hereinafter called Respondent.

I.

From on/about July 1, 1989 through November 14, 1989 Respondent allowed Crockett Veterinary Supply, Inc. to utilize his veterinary license to purchase dangerous (prescription) drugs, from approximately eleven different supply companies.

II.

Respondent knew Crockett Veterinary Supply was then selling the dangerous (prescription) drugs to approximately six veterinarians and to the Texas Dept. of Corrections without the benefit of holding a Texas Department of Health Wholesale Drug Registration.

III.

Respondent received a monthly salary from Crockett Veterinary Supply, Inc. for the use of his veterinary license and narcotics certificates which enabled Crockett Veterinary Supply, Inc. to order and receive drugs.

IV.

Respondent has not filed a registration statement as a Wholesale Distributor with the Texas Department of Health, as required by the Food, Drug and Cosmetic Act, Article 4476-5, V.A.C.S., Section 27(a).

V.

By knowingly and intentionally causing the delivery of dangerous (prescription) drugs from legitimate pharmaceutical companies to Crockett Veterinary Supply, Inc., which was not authorized to possess and sell dangerous (prescription) drugs, thereby committing a violation of the Dangerous Drugs Act, Article 4476.14, V.A.C.S., Section 3(a), Respondent has violated Rule of Professional Conduct 573.4, which states:

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.

VI.

By failing to maintain proper patient records for the dangerous (prescription) drugs which Respondent allowed Crockett Veterinary Supply, Inc. to order by utilizing Respondent's veterinary license and narcotics certificate, Respondent has violated Rule of Professional Conduct 573.52, which states:

Rule 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, xrays, names and dosages of medications administered an/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 of property of the employing veterinarian.

(c.) When appropriate, licensees may substitute the words "herd", "flock" or other collective group 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.

VII.

By allowing Crockett Veterinary Supply, Inc., an unlicensed company, to use his veterinary license to order, possess, dispense, and deliver dangerous (prescription) drugs unlawfully, and by not having a valid veterinary/client/patient relationship, Respondent has violated Rule of Professional Conduct 573.41, which states:

Rule 573.41 USE OF PRESCRIPTION DRUG

(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 the rule.

VIII.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Maxie Harkins's Veterinary License under the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 14(a)(3), (5), (6), (10) and (12) which state:

Article 8890, Section 14(a), 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"

(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;

(6) has permitted or allowed another to use his license, or certificate to practice veterinary medicine in this state;

(10) has paid or received any kickback, rebate, bonus, or other remuneration for treating an animal or for referring a client to another provider of veterinary services or goods;

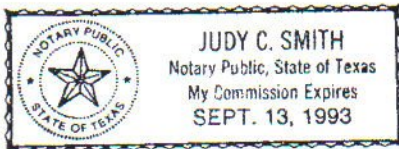
(12) has ordered prescription drugs or controlled substances for the treatment of an animal without first establishing a valid veterinary/patient/client relationship.

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 14th day of May 1990.

Further, Affiant sayeth not.

Joseph J. Rizzo
JOSEPH J. RIZZO, Affiant

SUBSCRIBED and SWORN TO before me by the said JOSEPH J. RIZZO, this the 14th day of May, 1990.



Judy C. Smith
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. Maxie C. Harkins, D.V.M. under Docketed Number 1990-11, this the 16th day of May, 1990.

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