

DOCKETED COMPLAINT NO. 1987-9

TEXAS STATE BOARD OF VETERINARY	X	TEXAS VETERINARY MEDICAL
MEDICAL EXAMIMERS	X	LICENSE NO. 2334
vs.	X	1986 RENEWAL CERTIFICATE
WESLEY WAYNE HERRMANN, D.V.M.	X	NUMBER 2042

FINDINGS, CONCLUSIONS AND ORDERS OF THE BOARD

On the 29th day of January, 1987, the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting at the Hyatt Regency Hotel in Fort Worth, Tarrant County, Texas, such meeting being called for the purpose of hearing and considering the above numbered and entitled complaint having been previously scheduled for hearing and Defendant, the said WESLEY W. HERRMANN, 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 3:30 p.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 WESLEY W. HERRMANN, D.V.M. was present in person; the Board then proceeded to hear the evidence presented by the State, and by DR. HERRMANN, and on the same day, January 29, 1987, all of the above members of said Board being present and participating, makes the following findings, to-wit:

FINDINGS OF FACT

I.

WESLEY WAYNE HERRMAN, D.V.M. is a doctor of veterinary medicine, licensed to practice veterinary medicine in the State of Texas under License Number 2334, 1986 Renewal Certificate Number 2042, with offices in Ballinger, Runnels County, Texas.

II.

WESLEY WAYNE HERRMANN, D.V.M. received notice of this hearing on January 12, 1987.

III.

WESLEY W. HERRMANN, D.V.M. was present before the Board and was not represented by legal counsel.

IV.

Between the dates of August, 1984 and June, 1986 WESLEY W. HERRMANN, D.V.M. prescribed a total of 5,598 tablets of the drug Dilaudid, aka, hydromorphone hydrochloride, a Schedule II drug.

V.

Prior to prescribing the aforementioned drugs, WESLEY WAYNE HERRMANN, D.V.M. failed to establish a patient/veterinarian relationship by having personally examined the individual animals and therefore was unable to determine that the controlled substance was therapeutically indicated for sound medical reasons. Further, WESLEY WAYNE HERRMANN, D.V.M. failed to maintain any patient records to substantiate the prescribing of the controlled substances.

CONCLUSIONS OF LAW

I.

WESLEY WAYNE HERRMANN, D.V.M. has violated Rule 27, of the Rules of Professional Conduct which states:

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

II.

WESLEY WAYNE HERRMANN, D.V.M. has violated Rule 32 of the Rules of Professional Conduct which states:

Individual records will include, but are not limited to, identification of patient, patient history, including immunization records, dates of visits, x-rays, names and doages 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 years and are the responsibility and property of the employing veterinarian.

III.

WESLEY WAYNE HERRMANN, D.V.M. has violated Rule 33 of the Rules of Professional Conduct which states:

It shall be unprofessional and a violation of the Rules of Professional Conduct for the veterinary profession or a 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.

IV.

By the aforementioned facts, WESLEY WAYNE HERRMAN, D.V.M. has violated the Texas Veterinary Licensing Act, Article 7465a, Vernon's Annotated Texas Statutes, Section 14(e) which states:

" . . . 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;

ORDER

It is hereby ORDERED that Texas Veterinary License No. 2334, heretofore issued to WESLEY WAYNE HERRMANN, D.V.M. by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, be and the same is HEREBY SUSPENDED for a period of two (2) years, commencing thirty (30) days from the date this Order is received by the Defendant, PROVIDED HOWEVER, that the execution of this Order of Suspension be PROBATED for the second year of suspension upon the following conditions:

1. That Dr. Herrmann will not apply for a Narcotics License in the State of Texas during his probationary period.
2. That Dr. Herrmann take the State Board Examination on Jurisprudence at the Board Offices in Austin within sixty (60) days of the date of this Order. The examination will be taken to demonstrate Dr. Herrmann's knowledge of the Veterinary Practice Act. It will not be administered on a pass/fail basis but as a means to identify deficiencies in Dr. Herrmann's understanding of the Act. The examination will be critiqued and corrected to 100% with Dr. Herrmann, to enhance his understanding of the Act.

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 29th day January, 1987, in Fort Worth, Tarrant 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 29th day of January, 1987.

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

Date 1/29/87

(Vacant)
Vice-President

Date

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

Date 1/29/87

Jim F. Humphrey
JIM F. HUMPHREY, Member

Date 1/29/87

Mike Levi
MIKE LEVI

Date 1/29/87

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

Date 1/29/87

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

Date 1/29/87

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

Date 1/29/87

Edward S. Murray
EDWARD S. MURRAY, D.V.M., Member

Date 1/29/87

DOCKETED COMPLAINT NO. 1987-9

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMIMERS	X	TEXAS VETERINARY MEDICAL LICENSE NO. 2334
vs.	X	1986 RENEWAL CERTIFICATE NUMBER 2042
WESLEY WAYNE HERRMANN, D.V.M.	X	

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. WESLEY WAYNE HERRMANN, D.V.M., Route 2, Box 240, Ballinger, Runnels County, Texas, Texas Veterinary License Number 2334, 1986 Renewal Certificate Number 2042, 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 WESLEY WAYNE HERRMANN, D.V.M., who is hereinafter called Respondent.

I.

Between the dates of August, 1984 and June, 1986 WESLEY W. HERRMANN, D.V.M. prescribed a total of 5,598 tablets of the drug Dilaudid, aka hydromorphone hydrochloride, a Schedule II drug, (See Exhibit A) in the following amounts for a Jo Mann and Hal Windham.

<u>NAME</u>	<u>DATE</u>	<u>DRUG</u>	<u>DRUG DOSE</u>	<u>QUANTITY</u>
Jo Mann	9/19/84	Dilaudid	4 mg.	200 tablets
	10/29/84	"	"	"
	11/29/84	"	"	"
	1/10/85	"	"	"

<u>NAME</u>	<u>DATE</u>	<u>DRUG</u>	<u>DRUG DOSE</u>	<u>QUANTITY</u>
Mann	2/4/85	Dilaudid	4mg.	200 tablets
	3/12/85	"	"	"
	4/11/85	"	"	"
	5/10/85	"	"	"
	6/6/86	"	"	"
	6/25/85	"	"	"
	7/23/85	"	"	"
	8/19/85	"	"	"
	9/23/85	"	"	"
	10/11/85	"	"	"
	11/21/85	"	"	"
	12/19/85	"	"	"
	1/17/86	"	"	"
	2/20/86	"	"	"
	3/25/86	"	"	"
	4/17/86	"	"	"
	5/7/86	"	"	"
				<hr/> 4,200
Hal Windham	10/10/84	Dilaudid	4 mg.	100
	12/19/84	"	"	"
	3/5/85	"	"	150
	5/6/85	"	"	"
	7/17/85	"	"	"
	9/5/85	"	"	148
	11/25/85	"	"	150
	1/30/86	"	"	"
	4/4/86	"	"	"
	6/3/86	"	"	"
				<hr/> 1,398

II.

Prior to prescribing the aforementioned drug, WESLEY WAYNE HERRMAN, D.V.M. failed to establish a patient/veterinarian relationship by having personally examined the individual animals and therefore was unable to determine that the controlled substance was therapeutically indicated for sound medical reasons. Further, WESLEY WAYNE HERRMANN, D.V.M. failed to maintain any patient records to substantiate the prescribing of the controlled substances.

III.

By writing prescriptions in the amounts outlined in paragraph I prior to establishing a patient/veterinarian relationship and failing to determine that the drugs were therapeutically indicated following examination and not maintaining records to substantiate the necessity for these drugs, WESLEY WAYNE HERMANN, D.V.M. has violated Rules 27, 32 and 33 of the Rules of Professional Conduct and Article 7465a, Section 14(e) which read as follows:

Rule 27 -

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

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 doages 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 years and are the responsibility and property of the employing veterinarian.

Rule 33 -

It shall be unprofessional and a violation of the Rules of Professional Conduct for the veterinary profession or a 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.

IV.

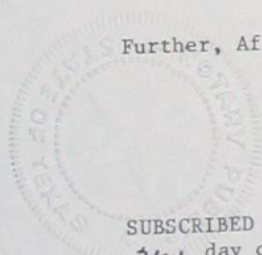
The Texas Veterinary Licensing Act, Article 7465a, Vernon's Annotated Texas Statutes, Section 14(e) states:

" . . . the Board may revoke or suspend a license, place a person whose license has been suspended on probation or reprimand a licensess, . . . 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;

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 31st day of December, 1986.

Further, Affiant sayeth not.


Thomas Cheshire
THOMAS CHESHIRE, Affiant

SUBSCRIBED and SWORN TO before me by the said THOMAS CHESHIRE this the 31st day of December, 1986.

Judy C. Smith
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. WESLEY W. HERRMANN, D.V.M., under Docket Number 1987-9, this the 31st day of December, 1986.

K. D. Dorris D.V.M.

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

STATE OF TEXAS
COUNTY OF TRAVIS

EXHIBIT A

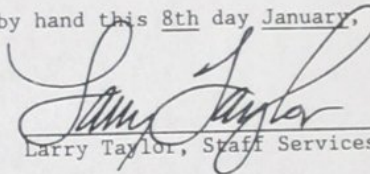
CERTIFICATION

Now comes Larry Taylor who, after being duly sworn, deposes and says:

"I am Staff Services Assistant, Triplicate Prescription Section, Narcotics Service, Texas Department of Public Safety, and, as such, I am the official charged with the care and custody of all documents received by the Texas Department of Public Safety pursuant to Section 3.09 of the Texas Controlled Substances Act. (Article 4476-15, V.T.C.S.)"

The attached printout reflects prescriptions issued by DR. WESLEY WAYNE HERRMANN, DVM, Texas Controlled Substances Registration Certification Number 90014644, as shown by records on file with the Texas Department of Public Safety, Triplicate Prescription Section.

To Certify which witness by hand this 8th day January, 1987.



Larry Taylor, Staff Services Assistant

Subscribed and sworn to before me this 8th day January, 1987.

Genevieve McKinster
Genevieve McKinster, Notary Public
for the State of Texas. My
Commission expires the 3rd day of
July, 1990.