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DOCKETED COMPLAINT NOS. 1992-08 & 1992-09

TEXAS STATE BOARD OF VETERINARY	()	
MEDICAL EXAMINERS	()	
vs.	()	
JAMES C. VULGAMOTT, D.V.M.	()	LICENSE NO. 5415
and	()	1991 RENEWAL NO. 2094
CYNTHIA ANN RIGONI, D.V.M.	()	LICENSE NO. 4662
		1991 RENEWAL NO. 4934+P

FINDINGS, CONCLUSIONS AND ORDERS OF THE BOARD

On the 12th day of June, 1992, the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting in the fourth floor Conference Room, 1946 South IH-35, Austin, Travis County, Texas, such meeting being called for the purpose of considering the Proposal for Decision on the above numbered and entitled complaints as well as for consideration of other Board business. The above entitled and numbered complaints having been heard by David M. Grassbaugh, presiding hearings officer, on March 17, 1992, and said Defendants, JAMES C. VULGAMOTT, D.V.M. and CYNTHIA ANN RIGONI, D.V.M., having been duly notified and the following members of the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS being present:

Guy A. Sheppard, D.V.M., President	of San Angelo, TX
Clark S. Willingham, Vice President	of Dallas, TX
Larry M. Dubuisson, D.V.M., Secretary - Recused	of Weslaco, TX
Olivia R. Eudaly, Member	of Fort Worth, TX
James N. Gomez, D.V.M., Member	of Brownsville, TX
Alton F. Hopkins, Jr., D.V.M., Member	of Dallas, TX
Robert D. Lewis, D.V.M., Member	of Elgin, TX
Joyce G. Schiff, Member	of Dallas, TX
John A. Wood, D.V.M., Member	of Lufkin, TX

At the appointed hour, the President of the Board, DR. GUY A. SHEPPARD, ordered the case to proceed at which time it was ascertained that Drs. Vulgamott and Rigoni were present.

The Board then reviewed a Proposal for A Decision prepared by David Grassbaugh, and on the same day, June 12, 1992, all of the above members of said Board being present and participating, with the exception of Dr. Dubuisson, recused from voting since he served as Secretary of the Board in this case, adopts the Findings of Fact and Conclusions of Law as found in the Proposal for Decision to-wit:

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MEDICAL EXAMINERS	()	
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Guy A. Sheppard, D.V.M., President	of San Angelo, TX
Clark S. Willingham, Vice President	of Dallas, TX
Larry M. Dubuisson, D.V.M., Secretary - Recused	of Weslaco, TX
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I.

FINDINGS OF FACT

1. On December 19, 1991, Matthew Wendel, an employee of the Texas Board of Veterinary Medical Examiners, swore a complaint against Dr. Rigoni. (Board Exhibit #1)
2. On December 20, 1992, this complaint was docketed as No. 1992-09, and notice of this complaint given to Dr. Rigoni. (Board Exhibits #1 & #5)
3. Notice of the March 17, 1992 hearing was mailed to Dr. Rigoni on February 20, 1992.
4. Dr. Rigoni holds Texas Veterinary Medical License No. 4662, 1991 Renewal Certificate No. 4934+P.
5. Pursuant to Art. 8890, and Art. 6252-13a, Texas Revised Civil Statutes, Annotated, The Board of Veterinary Medical Examiners has jurisdiction over this matter and the licensee, Cynthia Ann Rigoni, D.V.M.
6. On December 19, 1991, Matthew Wendel, an employee of the Texas Board of Veterinary Medical Examiners, swore a complaint against Dr. Vulgamott. (Board Exhibit #2)
7. On December 20, 1992, this complaint was docketed as No. 1992-08, and notice of this complaint given to Dr. Vulgamott. (Board Exhibits #2 & #7)
8. Notice of the March 17, 1992 hearing was mailed to Dr. Vulgamott on February 20, 1992. (Board Exhibit #8)
9. Dr. Vulgamott holds Texas Veterinary Medical License No. 5415, 1991 Renewal Certificate No. 2094.

10. Dr. Vulgamott never examined Kitty; his only information about the animal came from this call from Dr. Rigoni.

10. Pursuant to Art. 8890, and Art. 6252-13a, Texas Revised Civil Statutes, Annotated, The Board of Veterinary Medical Examiners has jurisdiction over this matter and the licensee, James C. Vulgamott, D.V.M.

11. At the hearing, all parties agreed to consolidate docketed complaints 1992-08 and 1992-09.

12. At the beginning of the hearing, The Board elected not to proceed on Paragraph's IV. and VII. of the docketed complaint 1992-09 regarding Dr. Rigoni.

13. At the conclusion of the fact-finding portion of the hearing, the Board elected not to proceed on Paragraph VI or under authority of Article 8890, Section 14(a)(3) of the docketed complaint 1992-08 regarding Dr. Vulgamott.

14. On June 5, 1991, Dr. Rigoni telephoned Dr. Vulgamott to consult with him regarding her horse, "A Rare Breed of Cat" Rigoni ("Kitty").

15. Kitty, a quarter-horse mare of about seven years, was unmanageable in confined places (e.g. stocks, gates, trailers), perhaps because of past abuse and trauma.

16. Dr. Rigoni suggested the possibility of modifying Kitty's behavior with therapy involving Ritalin.

17. Dr. Rigoni requested Dr. Vulgamott to prescribe the Ritalin for Kitty because she did not have the triplicate forms required for the acquisition of Ritalin.

18. Dr. Vulgamott's only patient records concerning Kitty are his handwritten notes of the telephone conversation. (Board Exhibit 9)

19. Dr. Vulgamott never examined Kitty; his only information about the animal came from this call from Dr. Rigoni.

20. After the call, Dr. Vulgamott issued a prescription to Dr. Rigoni for 100 20mg. Ritalin to administer to Kitty.

21. Ritalin (Methylphenidate HCL) is a Schedule II Controlled Substance.

22. The amount prescribed, 100 tablets, was determined by the size of the available bottle and not because it was the amount needed to treat Kitty.

23. Dr. Vulgamott used proper triplicate forms, and properly recorded and reported the prescription.

24. Dr. Rigoni had the prescription filled within seven days.

25. After reflecting on the risks involved because of the location and limitations of facility where Kitty boarded, Dr. Rigoni decided not to attempt the Ritalin therapy.

26. The unopened bottle of Ritalin was stolen, along with other items, in a burglary of Dr. Rigoni's office on November 2, 1991.

27. Dr. Rigoni, as Kitty's owner, was very familiar with the animal, but did not keep any patient records concerning the animal.

28. Dr. Rigoni kept the envelope and receipt in which the Ritalin prescription came, but made no other record of her possession of the Ritalin.

II.

CONCLUSIONS OF LAW

1. The notice and hearing requirements of Art. 8890, Sec. 14 and Art. 6252-13a, Texas Revised Civil Statutes, Annotated, have been met, and The Board of Veterinary Medical Examiners has jurisdiction over this matter and the licensees.

notes of the telephone call (Exhibit 9) are not adequate to meet the standards of this Rule.

2. The Board does not have grounds to discipline Dr. Rigoni pursuant to Article 8890, Sec. 7(b), which requires record keeping "as prescribed by The Texas Controlled Substances Act" because that Act exempts her as "a person in possession under a lawful order of a practitioner", Dr. Vulgamott's Prescription for Kitty. (Health and Safety Code Sec. 481.062(a)(3)).

3. The Board does not have grounds to discipline Dr. Rigoni pursuant to Article 8890, Sec. 14(a)(3) because she did not engage in a dishonest or illegal practice in connection with the practice of veterinary medicine.

4. Dr. Rigoni violated rule 573.50, which requires, "Texas veterinarians shall maintain at their place of business records of all scheduled drugs listed in the Texas Controlled Substances Act, in their possession." (Emphasis added.) The Rules of Professional Conduct, unlike the Controlled Substances Act, make no exceptions. Thus, by possessing a controlled substance, Ritalin, and not keeping records in the form required, Dr. Rigoni violated Rule 573.50.

5. Dr. Rigoni violated Rule 573.52 by not maintaining patient records regarding Kitty. There is no exception to patient record keeping requirements created by ownership.

6. The Board has grounds to discipline Dr. Rigoni pursuant to Article 8890, Section 14(a)(5) because she violated Rule 573.50 and Rule 573.52 of The Rules of Professional Conduct.

7. Dr. Vulgamott violated 573.41(a) by prescribing Ritalin for Kitty without establishing a veterinary/patient relationship by personally examining the animal.

8. Dr. Vulgamott violated Rule 573.52 because his only records, the notes of the telephone call (Exhibit 9) are not adequate to meet the standards of this Rule.

9. The Board has grounds to discipline Dr. Vulgamott pursuant to Article 8890, Sections 14(a)(5) and (a)(12).

ORDERS

It is therefore ORDERED that License Number 5415 heretofore issued to JAMES C. VULGAMOTT, D.V.M. by the Texas Board of Veterinary Medical Examiners be and the same is hereby OFFICIALLY REPRIMANDED.

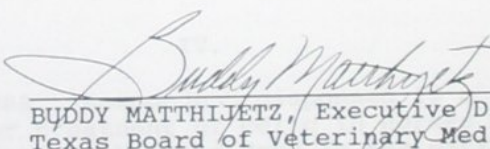
It is therefore ORDERED that License Number 4662 heretofore issued to CYNTHIA ANN RIGONI, D.V.M. by the Texas Board of Veterinary Medical Examiners be and the same is hereby SUSPENDED FOR ONE (1) YEAR, WITH THE ENTIRE PERIOD BEING PROBATED. Dr. Rigoni is FURTHER ORDERED to file with the Board offices, semi-annual reports of all controlled substances she purchases and the disposition of the controlled substances. The first report will be due December 1, 1992.

It is further ORDERED that each Finding of Fact found herein is adopted as a Conclusion of Law, and each Conclusion of Law is adopted as a Finding of Fact.

The foregoing Findings and Orders of the Texas 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 12th day of June, 1992, in Austin, Travis County, Texas.

As Executive Director of the Board I have been directed to prepare the Board's Findings and Orders in appropriate format and submit a copy of same to you.

Executed this 25th day of June, 1992.


BUDDY MATTHIJETZ, Executive Director
Texas Board of Veterinary Medical Examiners

DOCKETED COMPLAINT NO. 1992-09

TEXAS STATE BOARD OF VETERINARY	()	TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS	()	LICENSE NO. 4662
vs.	()	1991 RENEWAL CERTIFICATE
CYNTHIA ANN K. RIGONI, D.V.M.	()	NUMBER 4934+P

COMPLAINT AFFIDAVIT FORM

BEFORE ME, the undersigned authority, a Notary Public in and for Texas, on this day personally appeared MATTHEW WENDEL, who after being duly sworn, did depose and say:

On or about July 8, 1991, Matthew Wendel, 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 CYNTHIA RIGONI, D.V.M., All Cats Veterinary Clinic, 9119-B Stella Link Road, Houston, Harris County, Texas, Veterinary License Number 4662, 1991 Renewal Certificate Number 4934+P, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas Board of Veterinary Medical Examiners, I, Matthew Wendel, do hereby present the following complaint against CYNTHIA ANN K. RIGONI, D.V.M., who is hereinafter called Respondent.

I.

On or about June 5, 1991, Respondent requested James Vulgamott, D.V.M. to issue a Texas D.P.S. Triplicate Prescription for 100 20 mg. Ritalin, aka Methylphenidate HCL, tablets to be administered to Respondent's horse, "A Rare Breed of Cat". Respondent had the prescription filled for the Ritalin to be administered to her horse.

II.

Respondent failed to record receipt and/or disposition of the 100 20 mg. Ritalin tablets in her Controlled Substances Inventory Record.

III.

Respondent failed to make an entry in the patient records reflecting a diagnosis to substantiate the ordering and proposed administration of the Ritalin.

IV.

On or about June 1, 1988, Respondent dispensed 10 ccs of Talwin-V to Harvey Nichols, III for treatment of colic in horses and failed to reflect the dispensing of the scheduled drug in her patient records.

V.

By failing to record receipt of the Ritalin in her Controlled Substances Inventory Record, as described in Paragraph II, Respondent has violated Rule 573.50 of the Rules of Professional Conduct which states:

573.50 CONTROLLED SUBSTANCES RECORDS KEEPING FOR DRUGS ON HAND

Texas veterinarians shall maintain at their place of business records of all scheduled drugs listed in the Texas Controlled Substances Act, in their possession. These records shall be maintained for a minimum of five (5) years. The form for keeping records of those drugs shall contain the following information in addition to the name of the drug:

1. Date of acquisition,
2. Quantity purchased,
3. Date administered, dispensed,
4. Quantity administered, dispensed,
5. Name of client and patient receiving the drug(s),
6. Diagnosis and
7. Balance on hand.

VI.

By failing to make an entry on the patient record reflecting a diagnosis to substantiate the acquisition and proposed administration of the Ritalin as described in Paragraph III, Respondent has violated Rule of Professional Conduct 573.52 which states in part:

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, names 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.

VII.

By failing to enter in her patient records the dispensing of 10 ccs of Talwin-V to Harvey Nichols, III, for treatment of colic in horses, as described in Paragraph IV, Respondent has violated Rule 573.52 of the Rules of Professional Conduct which states in part:

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, names 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.

VIII.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Rigoni's Veterinary License under the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Sections 7(b) and 14 which state in part:

ARTICLE 8890, SEC. 7(b)

The Board shall require its licensees to maintain a record-keeping system for controlled substances as prescribed by the Texas Controlled Substances Act, (Article 4476-15, Vernon's Texas Civil Statutes). 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 8890, SECTION 14(a)

" . . . the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a licensee . . . if it finds that a 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;

ARTICLE 8890, SECTION 14B

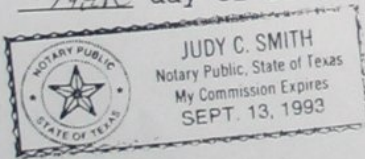
(a) If a person violates this Act in a manner that constitutes grounds for disciplinary action by the Board, the Board may assess a civil penalty against that person in addition to taking action under Section 14 or 14A of this Act.

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 14th day of December, 1991.

Further, Affiant sayeth not.

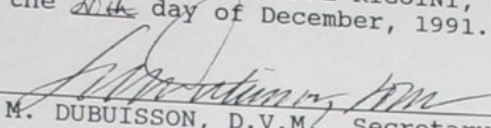
Matthew Wendel
MATTHEW WENDEL, Affiant

SUBSCRIBED and SWORN TO before me by the said Matthew Wendel, this the 14th day of December, 1991.



Judy C. Smith
JUDY C. SMITH, Notary 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. CYNTHIA ANNE RIGONI, D.V.M. under Docketed Number 1991-09, this the 20th day of December, 1991.



LARRY M. DUBUISSON, D.V.M., Secretary
Texas Board of Veterinary Medical Examiners

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