

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
MARY SUE LUX, D.V.M. : LS0404306VET
RESPONDENT. :

The parties to this action for the purposes of sec. 227.53, Wis. Stats., are:

Mary Sue Lux, D.V.M.
26900 75th Street
Salem, WI. 53211

Veterinary Examining Board
1400 E. Washington Avenue
P.O. Box 8935
Madison, WI 53708 8935

Department of Regulation and Licensing
Division of Enforcement
1400 E. Washington Avenue
P.O. Box 8935
Madison, WI 53708 8935

The parties in this matter, Mary Sue Lux, D.V.M., Respondent, personally and through her attorney, Kevin F. Milliken, Hurley, Burish and Milliken S.C., and Pamela M. Stach, Attorney for the Department of Regulation and Licensing, agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Veterinary Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Mary Sue Lux, D.V.M., Respondent herein, of 26900 75th Street, Salem, Wisconsin. 53168, and whose date of birth is June 3, 1956, is duly licensed to practice veterinary medicine in the State of Wisconsin under license number 2955 which was granted on July 8, 1987.
2. At all times relevant hereto, Respondent had a contract with the State of Wisconsin Division of Gaming to provide veterinary services to all of the animals at the Dairyland Greyhound Park, a racing facility in Kenosha, Wisconsin. These services included performing ovariohysterectomy or neutering surgeries on each of the animals which were considered for adoption, as well as other preventative care such as dental cleanings, vaccinations and heartworm checks.
3. At all times relevant hereto, Respondent also provided veterinary services to animals maintained at the privately owned Greyhound kennels at the racing facility.
4. On August 23, 2000, a female Greyhound "Emerald Savannah" owned by Sunrunner Kennel, was presented to Respondent for evaluation of her right hock. A radiograph taken at that time by Respondent revealed a plantar ligament tear.
5. On August 25, 2000, Respondent performed a surgical procedure to reduce the luxation, placed a pin to stabilize the hock, and casted the hock area. No tension band wires were used to fixate the pin. Respondent noted in her records that she was not able to accomplish good alignment of the joint.

6. Post surgical evaluation by Respondent on September 6, 2000, revealed the pin had migrated.
7. On September 7, 2000, Respondent performed a second surgery to replace the pin. No tension band wires were used to fixate the pin. A lateral view radiograph of the hock area was taken at that time.
8. The pin placed by Respondent on September 7 was not properly seated in the bone.
9. The dog was released to the owner on September 9.
10. Respondent took single radiographs of the dog's hock on August 24, August 27 and September 7 respectively. On each occasion she took a lateral radiograph only.
11. The minimum standard in the veterinary profession in 2000 required at least two radiographic views (dorsal/plantar and lateral) for evaluation of pin placement.
12. On October 10, 2000, the dog was presented to another veterinarian who subsequently performed additional corrective surgery. The dog was released to its owner and ultimately placed in a foster home.
13. Respondent's records for this animal do not meet with requirements of Wis. Adm. Code sec. VE 7.03.
14. The pending formal complaint and other investigations involve additional allegations that Respondent failed to administer and dispense adequate antibiotics for infection prevention when performing ovariohysterectomies and dental procedures concurrently, failed to provide adequate discharge instructions for post surgical care, failed to perform adequate skin closure on a wound resulting in an inadequate dermal bond, failed to consider and perform appropriate diagnostics to explore the possibility of infection and/or hemorrhage following performance of an ovariohysterectomy, failure to maintain an adequate veterinarian-client-patient relationship in the dispensing of prescription drugs to animal patients and sterilization and sanitation issues within her clinic. Respondent contests these allegations and no final determination of unprofessional conduct has been made with regard to these allegations.
15. The Respondent has cooperated in the investigation and has voluntarily agreed to the Order contained herein.

CONCLUSIONS OF LAW

1. The Wisconsin Veterinary Examining Board has jurisdiction in this proceeding pursuant to Wis. Stats. sec. 453.04.
2. The Wisconsin Veterinary Examining Board has the authority to resolve this matter by stipulation without an evidentiary hearing pursuant to Wis. Stats. sec. 227.44(5).
3. Respondent's conduct in failing to properly place the pin at the September 7, 2000, surgery and her failure to take adequate views of the surgically repaired area at any time during her care and treatment of Emerald Savannah constitute violations of Wis. Adm. Code Sec. VE 7.06 (1).

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties, as attached hereto, is accepted.

IT IS FURTHER ORDERED, that the license of MARY SUE LUX, DVM to practice veterinary medicine in the State of Wisconsin shall be LIMITED on the following terms and conditions:

1. Within nine months of the effective date of this Order, Respondent shall participate in and successfully complete courses in the following areas:

A. Radiology, which shall include specific instruction on appropriate views and technique;

B. Pharmacology, which shall include instructions on the appropriate use of antibiotics, with an emphasis on dosage and duration for post operative infections and wound infection management, and the appropriate prophylactic use of presurgical antibiotics;

C. Orthopedics, which shall include proper pin placement and alternative techniques for repair of orthopedic injuries to the leg and joints which require surgery.

2. Within six months of the effective date of this Order, Respondent shall also participate in and successfully complete a course in the maintenance of appropriate medical records which meet the requirements of Wis. Adm. Code sec. VE 7.03 to be conducted through the University of Wisconsin School of Veterinary Medicine. The course shall consist of clinical and, if necessary, classroom and/or home study of not more than four hours. A description of the course content and parameters shall be submitted to the Veterinary Examining Board, or its designee, for approval prior to commencement of the program.

3. With regard to the reeducation set forth in paragraphs one and two above, Respondent will be responsible for locating courses satisfactory to the Wisconsin Veterinary Examining Board or its designee, for providing adequate course descriptions to the Department Monitor and for obtaining the required pre-approval of the courses from the Wisconsin Veterinary Examining Board prior to commencement of the programs. The courses attended in satisfaction of this requirement shall be courses that require the physical presence of the attendees at the location where the course is being conducted. Courses conducted via the internet or by other electronic means of communication or courses conducted by correspondence or through a home study program shall not satisfy this requirement. The Board may reject in whole or in part any educational opportunity which is nominated by Respondent when, in the Board's judgment, the syllabus or description of the course or other educational opportunity is insufficient to fulfill the purpose for which Respondent nominates it by reason of the educational opportunity's scope, content, method of instruction, or degree of participation required of students. The Board shall not unreasonably deny an educational opportunity suggested by Respondent

4. Within 30 days after the courses identified in paragraphs one and two above are concluded, Respondent shall file with the Wisconsin Veterinary Examining Board certifications from the sponsoring organization of her attendance at the required courses.

5. Within nine months or within thirty days of completion of the courses set forth in paragraphs one and two above, whichever is earliest, Respondent shall engage the services of a veterinarian who shall be preapproved by the Board, to serve as a monitor under this Order. The monitor shall have no business or social relationship with the Respondent and shall sign the agreement attached hereto as Exhibit A. In the alternative, the Respondent may elect to utilize the services of a monitoring veterinarian provided by the Board. The monitoring shall involve the following conditions:

A. Within thirty days of completion of all educational components of this Order, Respondent shall identify for the monitor all patient records created by Respondent since completion of the educational programs. Within thirty days thereafter, the monitor shall select at random ten records and shall meet with Respondent to discuss those selected records. Several of those records shall include radiographs. This discussion shall include inquiry into the presenting symptoms, medical history, clinical observations, physical examination, and Respondent's rationale for any diagnostics considered and ordered, differential diagnoses and treatment recommendations. The Monitor shall also inquire into the success or failure of the treatment, any complications and Respondent's recommendations regarding those complications. In the case of a chronic condition or ongoing treatment, the Monitor shall inquire regarding Respondent's continued treatment plan. The Monitor shall also review the selected radiographs with Respondent and shall determine adequacy of views and the interpretation given the radiograph by Respondent in conjunction with the symptoms and clinical findings reflected in the patient record. The Monitor shall also review any consent forms obtained or discharge instructions provided with regard to any of these patients. The Monitor shall also review the dispensing of prescription medications reflected in the records to determine whether an appropriate veterinarian – client – patient relationship existed at the time of the dispensing. The Monitor shall also review the records to determine compliance with the requirements of Wis. Adm. Code Sec. VE 7.03.

B. In the event the Monitor notes any significant concerns with Respondent's evaluations, diagnostics or treatment

recommendations, radiographic techniques, prescriptive practices or recordkeeping, the Monitor shall notify the Board in writing immediately.

C. It is the responsibility of the Respondent to arrange scheduling of this review with the Monitor and it shall be conducted no later than sixty days after completion of the educational programs.

D. Within fifteen days of the review, the Respondent shall ensure that the Monitor reports in writing to the Board his/her findings with regard to the adequacy of Respondent's evaluations, diagnostics, and treatment recommendations and the adequacy of the patient records.

6. All costs of the educational courses, monitoring, approvals and reporting functions shall be the responsibility of the Respondent. Respondent shall ensure timely payment of any bills submitted to him for these services within thirty days of receipt unless other arrangements are made with the agreement of the individual billing for the services.

7. Respondent shall keep records of all prescription drugs dispensed to a client's animal after discharge. If the prescription drugs are intended for use on several animals maintained in a racing kennel, those animals shall be identified, specific directions for drug usage shall be provided, and all products shall be labeled as required by Wis. Stats. sec. 453.068, Wis. Adm. Code sec. VE and all federal regulations regarding the dispensing of prescription drugs. Respondent shall establish and maintain a valid veterinarian-patient-client relationship with each client and animal patient during the course of treatment.

8. Respondent shall prepare written discharge instructions to be provided to all clients upon discharge of her animal patients. A copy of those instructions shall be provided to the Board for approval.

IT IS FURTHER ORDERED that certifications, affidavits, reports or other documents required to be filed with the Wisconsin Veterinary Examining Board be filed with:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
1400 E. Washington Ave.
Madison, WI 53708

All certifications, affidavits, reports or other documents required to be filed with the Wisconsin Veterinary Examining Board will be deemed filed with the Veterinary Examining Board upon receipt by the Department Monitor.

IT IS FURTHER ORDERED that a reinspection of Respondent's clinic on November 26, 2004, has satisfied the Board that Respondent is in compliance with sanitation and sterilization standards in the veterinary profession.

IT IS FURTHER ORDERED that Respondent shall appear before the Wisconsin Veterinary Examining Board, if an appearance is requested by the Board, at the conclusion of the education program to establish that he has complied with all of the terms of this Final Decision and Order.

IT IS FURTHER ORDERED that upon satisfaction of all the terms of this Final Decision and Order, Respondent will receive a full and unrestricted license.

IT IS FURTHER ORDERED that Respondent shall pay costs in the amount of two thousand five hundred fifty dollars (\$2500.00) payable to the Department of Regulation and Licensing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 within thirty days of the effective date of this Order.

IT IS FURTHER ORDERED that violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the

terms of this Order. In the event Respondent fails to pay costs as ordered, the Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

IT IS FURTHER ORDERED that this Order is effective upon signing.

IT IS FURTHER ORDERED that the formal Complaint is hereby dismissed and pending investigative files 00 Vet 018, 01 Vet 010 and 02 Vet 006 are hereby closed.

Dated at Madison, Wisconsin, this 1st day of December, 2004.

WISCONSIN VETERINARY EXAMINING BOARD

Larry Mahr
A Member of the Board