

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE VETERINARY EXAMINING BOARD

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IN THE MATTER OF  
DISCIPLINARY PROCEEDINGS  
AGAINST:

DAVID H. MILLS, D.V.M.  
RESPONDENT

FINAL DECISION AND ORDER  
LS0005161VET

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David H. Mills, DVM  
6506 North Avenue  
Cleveland, WI 53015

James E. Polewski  
Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, Wisconsin 53708-8935

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PROCEDURAL HISTORY

A hearing in the above-captioned matter was held on July 28, 2000, before Administrative Law Judge William A. Black. The Division of Enforcement appeared by Attorney James E. Polewski. The respondent filed an answer to the complaint but did not appear at the hearing. The Administrative Law Judge (ALJ) filed his Proposed Decision in the matter on December 15, 2000. Dr. Mills filed his objections to the Proposed Decision on December 21, 2000, and Mr. Polewski filed his Division of Enforcement Response to Respondent's Objections to the Proposed Decision on January 8, 2001. The board considered the matter on January 24, 2001.

Based on the entire record of this case the Veterinary Examining Board makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. David H. Mills, D.V.M., ("respondent"), DOB, February 17, 1948 was licensed to practice veterinary medicine this state of Wisconsin pursuant to license number 1399.
2. By order dated April 28, 1999, the Veterinary Examining Board suspended the veterinary license issued to respondent. The term of the license suspension was 20 days, or until respondent completed remedial education approved by the Veterinary Examining Board, whichever was later.
3. As of April 26, 2000, the respondent had not complied with the condition for re-instatement of his license to practice veterinary medicine in Wisconsin, and the license remains suspended.
4. Despite the suspension of his license to practice veterinary medicine in Wisconsin, the respondent engaged in the practice of veterinary medicine for compensation in Wisconsin from April 28, 1999 and continuing, including:  
(Exhibit 2 – Investigation Report, United States Department of Agriculture Animal and Plant Health Inspection Service)
  - a. May, 1999: 4,5,7,8,9,10,12,13,14,17,18,19,26

- b. June, 1999: 1,4,7,9,11,14,15,16,18,21,24,28
- c. July, 1999: 2,6,8,9,10,13,14,19,23,25,26,30,31
- d. August, 1999: 2,4,5,6,17,18,19,23,24,25,26,30
- e. September, 1999: 3,7,9,13,20,21,22,27,29
- f. October, 1999: 1,2,4,5,6,8,12,14,15,18,25,26,28
- g. November, 1999: 1,4,5,6,10,11,15,16,17,18,19,20,23,25,29
- h. December, 1999: 3,9,10,14,22,27
- i. January, 2000: 7,15,20,21,26

5. On May 27, 1999, respondent filed his petition for review of the board's April 28, 1999, Final Decision and Order (Case #LS9708281VET) in the Circuit Court for Manitowoc County, the Honorable Fred H. Hazlewood presiding. The court issued its Memorandum Decision in the matter on November 22, 2000. The court found that the board erred in having admitted into evidence a deposition and a written statement of the complaining witness, and in making findings based upon that erroneously admitted evidence. The court therefore ordered that, because the Board's decision may have been affected by the information presented in the deposition and written statement, the case be remanded to the board for further consideration of the sanctions and penalties. The Board was directed to exclude from its deliberations any information derived solely from deposition and written statement of the complaining witness.

6. The board reconsidered the matter on remand on January 24, 2001. After deliberation, the board affirmed its earlier Order that respondent's license be suspended for 20 days, or until respondent completed remedial education approved by the Veterinary Examining Board, whichever was later.

CONCLUSIONS OF LAW

- 1. The Veterinary Examining Board has jurisdiction in this matter pursuant to Wis. Stats. ch. 453.
- 2. By failing to appear at the hearing, the respondent is in default under Wis. Admin. Code sec. RL 2.14, and the Veterinary Examining Board may make findings and enter an order on the basis of the Complaint and the evidence presented at the hearing.
- 3. By continuing to practice veterinary medicine while his license to do so was suspended by order of the board, and billing clients for his services as if he were authorized to provide those services, the respondent has violated Wis. Stat. sections, 453.05(1) and 453.07(1)(b), (g) and (h).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of David H. Mills, respondent, license number 1399, is REVOKED. Costs are awarded to Complainant.

EXPLANATION OF VARIANCE

Thr board has accepted the ALJ's Findings of Fact, Conclusions of Law and Order in their entirety. The board has, however, added two Findings of Fact at paragraphs 5 and 6, to reflect the status of Case #LS9708281VET at the time the board considered this matter.

Dated this 1<sup>st</sup> day of February, 2001.

STATE OF WISCONSIN

VETERINARY EXAMINING BOARD

Diane Scott, D.V.M.

Chair