

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

## BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF :  
DISCIPLINARY PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
THOMAS R. SHALES, DVM; : LS0204221VET  
RESPONDENT :

1. Thomas R. Shales (DOB: 11/13/49) is and was at all times relevant to the facts set forth herein a doctor of veterinary medicine licensed in the State of Wisconsin pursuant to license # 1724. This license was first granted June 17, 1977.

2. An audit of Respondent's veterinary clinic on March 5, 2000, by the Drug Enforcement Agency revealed that Respondent failed to maintain complete documentation of the distribution of controlled substances, in violation of 21 CFR 1304.21(a), sec. 453.068(3), Wis. Stats. and Wis. Admin. Code §§ PHAR 8.02, and VE 7.03(2)(L). Respondent also failed to conduct a biennial inventory of controlled substances at the veterinary clinic in violation of 21 CFR 1304.11(c).
3. Respondent has failed to provide secure storage of controlled substances at the veterinary clinic in violation of 21 CFR 1301.75(b). Phenobarbital, Torbutrol and diazepam have been stored in an unlocked cabinet. Hydrocodone and codeine products have been stored in a cardboard box. Acetaminophen with codeine medications have been kept at Respondent's home.
4. Respondent has admitted to taking controlled substances from his veterinary clinic for his personal use. Respondent has stated that during several periods of time ending in November, 2000, he consumed from 30 to 60 tablets per day of hydrocodone and codeine. This conduct violated sec. 961.38(5), Wis. Stats. and Wis. Admin. Code §§ VE 7.06(4), (8), and (21).
5. An evaluation of Respondent conducted November 20, 2000, at Rogers Memorial Hospital, following detoxification, resulted in a diagnosis of opiate dependence and major depression, with treatment recommended. Respondent was previously hospitalized for detoxification at the Forest Health System Maryville-Nolan Center in March, 1999. Respondent has participated in outpatient therapy for his condition at the Center for Human Development. Respondent is subject to Wis. Admin. Code § VE 7.06(7).
6. The Division of Enforcement has in addition received allegations that on or about May 23, 2002, respondent performed spays on two (2) canines which later developed symptoms indicative of negligent operative procedure(s). Respondent contests these allegations.
7. In resolution of this matter, Respondent consents to issuance of the following Conclusions of Law and Order:

#### CONCLUSIONS OF LAW

1. The Wisconsin Veterinary Examining Board has jurisdiction to act in this matter pursuant to sec. 453.07(2), Stats. and is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Stats.
2. The conduct described in paragraphs 2 through 6 above, violated secs. 453.068(3), and 453.07(1)(b) and (c), Stats., and Wis. Admin. Code §§ VE 7.03(2)(L) and VE 7.06(4), (7), (8) and (21). Such conduct constitutes unprofessional conduct within the meaning of the Code and Statutes.

## **ORDER**

#### **IT IS HEREBY ORDERED that**

1. The license of Thomas R. Shales to practice veterinary medicine in the State of Wisconsin is hereby **SUSPENDED** for an INDEFINITE period of time.

2. The suspension is hereby STAYED for a period of three months, conditioned upon compliance with the conditions and limitations outlined below.

a. Respondent may apply for consecutive three (3) month extensions of the stay of suspension, which shall be granted upon acceptable demonstration of compliance with the conditions and limitations imposed on the Respondent for rehabilitation and practice during the prior three (3) month period.

b. The Board may without hearing deny an application for extension of the stay, or commence other appropriate action, upon receipt of information that Respondent has violated any of the terms or conditions of this Order. If the Board denies the petition by the Respondent for an extension, the Board shall afford an opportunity for hearing in accordance with the procedures set forth in ch. RL 1, Wis. Admin. Code upon timely receipt of a request for hearing.

c. Upon a showing by Respondent of continuous, successful compliance for a period of at least five years of active practice with the terms of this order and compliance with all other terms of this Order, the Board may grant a petition by the Respondent for return of full licensure. (See ¶19, below.)

3. The license to practice of Respondent shall be LIMITED as follows:

### **REHABILITATION, MONITORING AND TREATMENT**

#### **Treatment Required**

4. Respondent shall enroll and continue successful participation in all components of a drug and alcohol and/or mental health outpatient treatment program at a treatment facility acceptable to the Board as Respondent's Supervising Health Care Provider shall determine to be appropriate for Respondent's rehabilitation. Respondent shall commence involvement in the rehabilitation program within 5 days of the effective date of this Order.

5. The rehabilitation program shall include and Respondent shall participate in individual and/or group therapy sessions for the first year of the stayed suspension upon a schedule as recommended by the supervising physician or therapist, but not less than once monthly. Such therapy shall be conducted by the supervising physician or therapist, or another qualified physician or therapist as designated by the supervising physician or therapist and acceptable to the Board. After the first year of stayed suspension, this requirement for therapy sessions may be modified only upon written petition and a written recommendation by the supervising physician or therapist expressly supporting the modifications sought. A denial of such petition for modification shall not be deemed a denial of the license under secs. 227.01(3) or 227.42, Stats., or Wis. Admin. Code ch. RL 1, and shall not be subject to any right to further hearing or appeal.

#### **Sobriety**

6. Respondent shall abstain from all personal use of controlled substances as defined in Sec. 161.01(4), Stats. except when necessitated by a legitimate medical condition and then only with the prior approval of his Supervising Health Care Provider.

7. Respondent shall abstain from all personal use of alcohol.

8. Respondent shall in addition refrain from the consumption of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, or which may create false positive screening results, or which may interfere with Respondent's treatment and rehabilitation. Respondent shall report all medications and drugs, over-the-counter or prescription, taken by Respondent to the Supervising Health Care Provider within 24 hours of ingestion or administration, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Within 24 hours of a request by the Supervising Health Care Provider or the Board or its designee, Respondent shall provide releases which comply with state and federal laws authorizing release of all health care records by the person who prescribed, dispensed, administered or ordered this medication for Respondent. These releases shall also authorize the Supervising Health Care Provider, the Board or its designee to discuss the Respondent's health care with the person who prescribed, dispensed, administered or ordered this medication. The terms of this paragraph shall not be deemed to modify or negate Respondent's obligations as set forth in this Order.

### **Department Monitor**

9. The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including receiving and coordinating all reports and petitions, and requesting additional monitoring and surveillance. The Department Monitor may be reached as follows:

Department Monitor  
Department of Regulation Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935  
FAX (608) 266-2264  
TEL. (608) 267-3817

### **Releases**

10. Respondent shall provide and keep on file with the Supervising Health Care Provider, all treatment facilities and personnel, laboratories and collections sites current releases which comply with state and federal laws authorizing release of all urine, blood and hair specimen screen results and medical and treatment records and reports to, and permitting the Supervising Health Care Provider and all treating physicians and therapists to disclose and discuss the progress of Respondent's treatment and rehabilitation with the Board or any member thereof, or with any employee of the Department of Regulation and Licensing acting under the authority of the Board. Copies of these releases shall be filed simultaneously with the Department Monitor.

### **Drug and Alcohol Monitoring**

11. Within thirty (30) days from the date of the signing of this Order the Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the department pursuant to Wis. Admin. Code § RL 7.11, ("Approved Program").

a. The Department Monitor, Board or Board designee shall provide to the Respondent a list of Approved Programs, however, the Respondent is solely responsible for timely enrollment in any such Approved Program.

b. Unless otherwise ordered by the Board, the Approved Program shall require the testing of urine specimens at a frequency of not less than twenty-six (26) times each year. Upon successful

maintenance of sobriety and demonstrated progress in therapy, the Board shall reduce the frequency of screens upon petition by Respondent pursuant to ¶18, below.

c. The Department Monitor, Board or Board designee shall determine the tests to be performed upon the urine specimens.

d. The Respondent shall comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program, including but not limited to:

(1) contact with the Approved Program as directed on a daily basis, including weekends and holidays, and;

(2) production of a urine specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.

e. The Board in its discretion without a hearing and without further notice to the Respondent may modify this Order to require the submission of hair or breath specimens or that any urine or hair specimen be furnished in a directly witnessed manner.

f. All expenses of enrollment and participation in the Approved Program shall be borne by the Respondent. The Respondent shall keep any account for such payments current in all respects.

g. For purposes of further Board action under this Order it is rebuttably presumed that all confirmed positive test results are valid. Respondent has the burden of proof to establish by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody which causes an invalid confirmed positive test result.

12. Respondent shall keep the Supervising Health Care Provider informed of Respondent's location and shall be available for contact by the Supervising Health Care Provider at all reasonable times.

#### **Required Reporting by Supervising Health Care Provider, and laboratories**

13. The Supervising Health Care Provider shall report immediately to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement by FAX or telephonic communication: any failure of Respondent to provide a urine, blood or hair specimen within five (5) hours from the time it was requested; or of any inability to locate Respondent to request a specimen. The laboratory shall immediately report all urine specimens suspected to have been tampered with and all urine, blood or hair specimens which are positive or suspected positive for controlled substances or alcohol to the Department Monitor, and to the Supervising Health Care Provider.

14. The laboratory shall within 48 hours of completion of each drug or alcohol analysis mail the report from **all** specimens requested of Respondent under this Order to the Department Monitor (regardless of whether the laboratory analysis of the specimen was positive or negative for controlled substances, their metabolites or alcohol). Each report shall state the date and time the specimen was requested; the date and time the specimen was collected; the results of the tests performed to detect tampering; and the results of the laboratory analysis for the presence of controlled substances and alcohol.

15. The Supervising Health Care Provider shall submit formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in the drug and alcohol treatment program and summarize the results of the urine, blood or hair specimen analyses. The Supervising Health Care Provider shall report immediately to the Department Monitor [Division of Enforcement, P.O. Box 8935, Madison, Wisconsin 53708-8935, FAX (608)266-2264, telephone No. (608)267-3817] any violation or suspected violation of the Board's Final Decision and Order.

### **Required reporting by Respondent**

16. Respondent is responsible for compliance with all of the terms and conditions of this Final Decision and Order. It is the responsibility of Respondent to promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order, including any failures of his Supervising Health Care Provider, professional mentor, treatment facility, laboratory or collection sites to conform to the terms and conditions of this Order.

### **Facility approval**

17. If the Board determines that the Supervising Health Care Provider, treatment facility, laboratory or collection sites have failed to satisfy the terms and conditions of this Final Decision and Order, the Board may, at its sole discretion, direct that Respondent continue treatment and rehabilitation under the direction of another Supervising Health Care Provider, treatment facility, laboratory or collection site which will conform to the terms and conditions of this Final Decision and Order.

## **PETITIONS FOR MODIFICATION OF TERMS**

18. Respondent may at any time following six (6) months from the effective date of this Order petition the Board for modification of the terms of this limited license. Any such petition shall be accompanied by a written recommendation from Respondent's Supervising Health Care Provider expressly supporting the specific modifications sought. Denial of the petition in whole or in part shall not be considered a denial of a license within the meaning of sec. 227.01(3)(a), Stats. and Respondent shall not have a right to any further hearings or proceedings on any denial in whole or in part of the petition for modification of the limited license.

19. After five years of continuous active professional practice under this Order and without relapse, and upon recommendation of the Supervising Health Care Provider, Respondent may petition the Board for a termination of all limitations on the license, and restoration of an unlimited license. Such restoration shall be in the sole discretion of the Board, and denial of the petition in whole or in part shall not be considered a denial of a license within the meaning of sec. 227.01(3)(a), Stats. and Respondent shall not have a right to any further hearings or proceedings on any denial in whole or in part of the petition for termination of the limitations and restoration of unlimited licensure.

## **EXPENSES OF TREATMENT AND MONITORING**

20. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order.

## **PRACTICE LIMITATIONS**

### **Controlled Substance Access**

21. Respondent shall comply with the DEA registration restriction and refrain from access to or the administration of Schedule II and III narcotic controlled substances until such time as access or administration is approved by the Board and DEA. Respondent shall prescribe and dispense permitted controlled substances only for treatment of individual animals that he has examined and rendered a diagnosis requiring use of the drug.

22. Respondent shall maintain a log of all controlled substances prescribed, dispensed or administered by him that identifies the client, patient, identity and quantity of drug and date of service. Respondent shall submit a copy of the log to the Department Monitor for review on an annual basis during the term of this Order.

## Supervision

23. Within thirty (30) days from the effective date of this Order, Respondent shall obtain a Professional Mentor acceptable to the Board.

a. The Professional Mentor may designate another qualified veterinarian acceptable to the Board to exercise the duties and responsibilities of the Professional Mentor in an absence of more than three weeks.

b. In the event that the Professional Mentor is unable or unwilling to continue to serve as Respondent's professional mentor, the Board may in its sole discretion select a successor Professional Mentor.

c. The Professional Mentor shall have no duty or liability to any patient or third party, and the Mentor's sole duty is to the Board.

24. The Professional Mentor shall be the individual responsible for supervision of Respondent's practice. Supervision shall include weekly review of charts selected by the Professional Mentor, monthly meetings, and any other actions deemed appropriate by the Professional Mentor to determine that Respondent is a) practicing in a professional and competent manner; and b) maintaining adequate and appropriate recordkeeping, dispensing and control of controlled substances in his practice.

25. Following Respondent's completion of the training referred to in ¶26, below, the Professional Mentor (or a representative of the training provider) shall observe Respondent perform at least five (5) canine spays (large dogs, over 50 pounds) and submit a report to the Department Monitor of his observations and any recommendations regarding Respondent's performance of this procedure.

## Training

26. Within 90 days from the effective date of this Order, respondent shall submit evidence acceptable to the Board that he has participated in and successfully completed a board-approved course in conducting ovariohysterectomies (with an emphasis on large dogs). Training shall be obtained through the University of Wisconsin School of Veterinary Medicine, an established clinic, or another facility approved by the Board. The course shall consist of a) Respondent's completion of recommended study materials; b) a question-and-answer discussion with a faculty member to assure comprehension of risk factors, proper technique and procedures; and c) Respondent's observation of at least one large canine ovariohysterectomy at the facility. 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. To be acceptable, a Board-certified surgeon should be involved in either the discussion or demonstration of the procedure. Respondent shall permit the person(s) conducting the program to provide a written evaluation of his participation in and successful completion of the course. All costs of the program shall be the responsibility of Respondent.



# Reporting

27. Respondent shall arrange for his Professional Mentor to provide formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, PO Box 8935, Madison, Wisconsin 53708-8935 on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's practice, as well as Respondent's recordkeeping and control of controlled substances in his practice.

28. Respondent's Professional Mentor shall immediately report to the Department Monitor any conduct or condition of the Respondent which may constitute unprofessional conduct, a violation of this Order, or a danger to the public or a patient, including but not limited to: reasonable cause to doubt Respondent's maintenance of sobriety, problems with controlled substance inventory, or problems with veterinary practice.

29. It is the responsibility of Respondent himself to promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order, including any failures of the Professional Mentor to conform to the terms and conditions of this Order.

## **Change in Address or Work Status**

30. Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

## **SUMMARY SUSPENSION**

**31. Violation of any of the terms of this Order shall 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 deny a stay of suspension of the license or impose additional conditions and limitations or other discipline.**

## **Effective Date of Order**

32. This Order shall become effective upon the date of its signing.

WISCONSIN VETERINARY EXAMINING BOARD

By: Diane Scott  
On behalf of the Board

3-19-03  
Date