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STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

JACQUES R. THEBERT, D.V.M.
RESPONDENT.

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FINAL DECISION AND ORDER
(LS 0505252VET)

(DOE 02 VET 011)

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

Jacques R. Thebert DVM
Franklin Veterinary Clinic
9755 W. St. Martins Rd.
Franklin, WI 53132

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, Jacques R. Thebert, D.V.M., Respondent herein, 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. Jacques R. Thebert D.V.M., Respondent herein, of 9755 W. St. Martins Rd., Franklin, WI. 53132, and whose date of birth is October 28, 1958, is duly licensed to practice veterinary medicine in the State of Wisconsin under license number 2915 which was granted on July 9, 1986.

2. On September 8, 2001, a neutered male Golden Retriever dog owned by Diane Zawacki was presented to Respondent for removal of lump located on the dog's right shoulder.

3. On September 11, 2001, Respondent removed the mass and sent it to the Marshfield Laboratory for histopathology.

4. The results of the histopathology, received on September 14, revealed a poorly differentiated, Grade III, malignant mast cell tumor with borders that extended beyond the margins of the specimen which had been submitted.

5. The dog was released to the owner on Sunday, September 16 from the boarding facility at the clinic by a kennel worker.

6. There is a dispute between the Respondent and the owner regarding what information and instructions were provided to the owner. The owner alleges that she was not told of the existence of the cancer. The Respondent claims he provided written discharge instructions which identified the existence of the mast cell tumor and the fact that it had the potential to reoccur or spread to other sites.

7. Respondent did not maintain a copy of the discharge instructions and they are not reflected in his records.
8. Respondent admits that he did not advise the owner of treatment options or prognosis in the discharge information and had no personal communication with the owner regarding the dog's condition and available treatment modalities.
9. There is no indication that the owner was provided with information regarding additional diagnostic tests.
10. On September 22, 2001, the owner again presented the dog to Respondent for removal of the stitches.
11. The Respondent did not provide any information to the owner at September 22 visit regarding the diagnosis, available treatment options and the dog's prognosis. Respondent alleges that he was not asked any questions by the owner.
12. On February 15, 2002, the owner contacted the Respondent's clinic and advised the receptionist that the dog had many more nodules and was very lethargic. She inquired about whether a biopsy had been performed and was told by the receptionist that the mass had been biopsied and was malignant.
13. On February 25, 2002, the owner took the dog to another clinic for evaluation. The dog was diagnosed with advanced cancerous lesions with poor prognosis and the owner elected euthanasia.
14. Respondent's records do not contain the results of any pre or post surgical examination, the results of any pre distemper physical examination, no copies of consents and no copies of the discharge instructions regarding the diagnosis and treatment of the cancerous condition.
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 advise the owner of the dog's diagnosis, available additional diagnostics, prognosis and treatment options constitutes a violation of Wis. Adm. Code Sec. VE 7.06 (1).
4. Respondent's medical records for the Zawacki dog do not comply with the requirements of Wis. Admin. Code sec. VE 7.03.

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 JACQUES R. THEBERT, 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 eight (8) hours of continuing education in oncology with an emphasis on the diagnosis and treatment of malignant mast cell tumors. 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 program. The course/s 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.

2. Within six months of the effective date of this Order, Respondent shall 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 two 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. 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 his attendance at the required courses.

4. Within 30 days of the effective date of this Order, Respondent shall implement procedures within his clinic whereby he or another veterinarian on his staff shall personally meet with the owners of the clinic's patients to discuss the diagnosis of the animal's condition, prognosis, further diagnostics, if any are required, and treatment options and record this information in the patient's records. These procedures shall be implemented for all clinic patients commencing thirty days after the effective date of this Order.

5. No later than thirty days following completion of the recordkeeping course set forth in paragraph two above, Respondent shall develop and implement a recordkeeping system which meets the requirements of Wis. Admin. Code section VE 7.03.

6. Upon completion of the coursework set forth in paragraphs one and two above, Respondent shall meet with the Veterinary Examining Board or a designated member of the Board to discuss the results of the course work and the changes required under paragraphs 4 and 5 above. He shall provide examples of his current record keeping that reflect these new procedures. The Board or its designee shall also determine if the current recordkeeping is in compliance with the requirements of Wis. Admin. Code sec. VE 7.03. This meeting shall be conducted on the date of a regularly scheduled Veterinary Examining Board meeting unless the Board agrees to an alternate date.

7. All costs of the educational courses, the reporting functions, and the meeting set forth in paragraph 6 above 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.

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 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 nine hundred twenty nine dollars (\$929.00) payable to the Department of Regulation and Licensing, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 within sixty 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 investigative file 00 Vet 011 is hereby closed.

Dated at Madison, Wisconsin, this 25th day of May, 2005.

WISCONSIN VETERINARY EXAMINING BOARD

Larry D. Mahr, DVM
A Member of the Board