

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
JOSEPH D. GAINES D.V.M. :
RESPONDENT. : LS0608235VET
:
:

(DOE FILE # 03 VET 005)

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

Joseph D. Gaines, DVM
6511 Lidgetop DR
Green Leaf, WI 54126

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

PROCEDURAL HISTORY

The parties in this matter, Joseph D. Gaines, D.V.M., Respondent, 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. Joseph D. Gaines, DVM, (D/O/B 3-21-55) is currently licensed to practice veterinary medicine in the State of Wisconsin under license #1920 which was first granted on July 22, 1979.
2. Respondent's most recent address on file with the Wisconsin Veterinary Examining Board is 6511 Lidgetop Dr., Green Leaf WI, 54126.
3. At all times relevant to this action, Respondent was licensed to practice veterinary medicine in Wisconsin and employed by Milksource LLC, Omro, Wisconsin, as a nutritional consultant and veterinarian.
4. A formal investigation entitled 03 Vet 005 is pending before the Wisconsin Veterinary Examining Board.
5. Between January 21, 2001 and April 1, 2004, an unlicensed herdsman employed by Milksource LLC performed surgical procedures to correct displaced abomasums in dairy cattle at the direction of Respondent.
6. Respondent had instructed the herdsman in performing the surgical procedure and personally observed the performance of the first ten surgeries by the herdsman.
7. The herdsman performed several hundred of the surgical procedures over the time period set forth in paragraph five above with the Respondent usually offsite but available by telephone. No evidence has been obtained of any resulting harm to any of the animals upon whom the surgical procedures were performed.
8. Surgical procedures may not be delegated by a veterinarian to individuals who are not licensed to practice veterinary medicine.
9. Respondent has cooperated throughout this investigation and, in order to resolve this matter, has voluntarily agreed to entry of this Order.

CONCLUSIONS OF LAW

1. The Wisconsin Veterinary Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 453.04, and is authorized to enter into the attached Stipulation and Order pursuant to Wis. Stat. § 227.44(5).

2. Respondent's conduct as set forth herein constitutes a violation of Wis. Stat. sec. 453.07 (b) and Wis. Admin. Code sec. VE 7.02 (1) (c) by delegating the performance of a surgical procedure to a person not licensed to practice veterinary medicine.

ORDER

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

IT IS FURTHER ORDERED, that Joseph D. Gaines, D.V.M. is hereby REPRIMANDED.

IT IS FURTHER ORDERED that Joseph D. Gaines, D.V.M. shall comply with all provisions of Wis. Admin. Code sec. VE 7.02 regarding the delegation of veterinary medical acts and shall not delegate the performance of any surgical procedure to any person who is not licensed to practice veterinary medicine.

IT IS FURTHER ORDERED that Dr. Gaines shall pay costs in this matter of Sixteen Hundred Forty Nine dollars (\$1649.00) within six (6) months of the effective date of this Order.

Payment of costs shall be mailed to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 267-3817
Fax (608) 266-2264

IT IS FURTHER ORDERED, that the pending investigation 03 VET 005 is hereby closed.

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 or fails to comply with the ordered continuing education the Respondent's license (#1920) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

This Order is effective on the date of its signing.

Dated at Madison, Wisconsin this 23rd day of August, 2006.

WISCONSIN VETERINARY EXAMINING BOARD

Larry D. Mahr, DVM
A Member of the Board