

# 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 THE DISCIPLINARY  
PROCEEDINGS AGAINST**

**VARIANCE TO ADMINISTRATIVE  
LAW JUDGE'S DECISION**

**JESSICA TUSHAUS, C.V.T.,  
RESPONDENT**

**DHA Case No. DRL-10-0056  
DOE Case No. 08 VET 001**

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**To: Amanda Tollefsen, Administrative Law Judge  
State of Wisconsin  
Division of Hearings and Appeals  
5005 University Avenue, Suite 201  
Madison, WI 53705-5400**

**James E. Polewski, Prosecuting Attorney  
Division of Enforcement  
Department of Regulation & Licensing  
P.O. Box 8935  
Madison, WI 53708-8935**

**Jessica Tushaus, Respondent  
8586 North Servite Drive  
Milwaukee, WI 53223**

**PROCEDURAL HISTORY**

The Veterinary Examining Board adopts in full the Procedural History as set forth in the Proposed Decision and Order in this matter dated March 7, 2011 attached hereto.

**FINDINGS OF FACT**

The Veterinary Examining Board adopts in full the Findings of Fact as set forth in the Proposed Decision and Order in this matter dated March 7, 2011 attached hereto, except with regard to Paragraph 1. Paragraph 1 shall be modified to read:

1. Jessica Tushaus, C.V.T., was born on September 14, 1981, and is duly licensed to practice as a veterinary technician in the state of Wisconsin pursuant to license number 9901640. This license was first granted on August 9, 2005.

## **CONCLUSIONS OF LAW**

The Veterinary Examining Board adopts in full the Conclusions of Law as set forth in the Proposed Decision and Order in this matter dated March 7, 2011 attached hereto.

## **DISCUSSION**

The Veterinary Examining Board adopts in full the Discussion as set forth in the Proposed Decision and Order in this matter dated March 7, 2011 attached hereto.

## **APPROPRIATE DISCIPLINE**

The Veterinary Examining Board adopts in full the Appropriate Discipline as set forth in the Proposed Decision and Order in this matter dated March 7, 2011 attached hereto.

## **ASSESSMENT OF COSTS**

The Veterinary Examining Board adopts in full the Assessment of Costs as set forth in the Proposed Decision and Order in this matter dated March 7, 2011 attached hereto.

## **ORDER**

The Veterinary Examining Board adopts in full the Order as set forth in the Proposed Decision and Order in this matter dated March 7, 2011 attached hereto, except with regard to Paragraph C.4. Paragraph C.4. shall be modified to read:

C.4. The rehabilitation program shall require Respondent to participate in inpatient individual and group therapy sessions at a frequency to be determined by Treater, but not less than once weekly for the first year of the stayed suspension. Therapy may end only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.

## **EXPLANATION OF VARIANCE**


The Board adopts in full the Proposed Decision and Order of the ALJ dated March 7, 2011 with two small exceptions. Paragraph 1 of the Findings of Fact suggest that the Respondent is licensed as a veterinarian when in fact she is licensed as a Certified Veterinary Technician. The Board seeks to clarify her credential and eliminate any confusion. Paragraph C.4. requires the Respondent to take Antabuse as a part of her rehabilitation program. The Board does not want to

prescribe specific medications to the Respondent and declines to do so. This requirement has been eliminated from the order.

Dated this 21 day of June, 2011.

Veterinary Examining Board

By:

  
Robert Spencer, D.V.M., Chairperson



**Before The  
State Of Wisconsin  
DIVISION OF HEARINGS AND APPEALS**

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In the Matter of the Disciplinary Proceedings Against  
**JESSICA TUSHAUS, C.V.T.**, Respondent

PROPOSED DECISION AND ORDER  
DHA Case No. DRL-10-0056

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Division of Enforcement Case Number 08 VET 001

The parties to this action for the purposes of Wis. Stat. § 227.53 are: ,

Jessica Tushaus  
8586 North Servite Drive  
Milwaukee, WI 53223

Department of Regulation of Licensing, by

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

Wisconsin Veterinary Examining Board  
Department of Regulation & Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

**PROCEDURAL HISTORY**

The Division of Enforcement (Division) filed a formal complaint in this matter on August 10, 2010.

Respondent filed an Answer to this Complaint on or about September 8, 2010, denying all allegations.

Respondent was thereafter found to be in default, (October 19, 2010), after failing to make herself available for two consecutive pre-hearing conferences.

Upon information from Respondent's boyfriend that Respondent had been out of state at the time of the two missed prehearing conferences, and wanted to reschedule a prehearing

conference upon her return to Wisconsin, a third pre-hearing conference was scheduled for November 2, 2010. Respondent made herself available for this pre-hearing conference, and participated in scheduling the hearing of this matter for February 8, 2011.

Respondent failed to appear at the time and place set for the hearing. The Division presented a prima facie case, and moved for default against Respondent pursuant to Wis. Admin. Code s. RL 2.14. Administrative Law Judge Amanda Tollefsen, presiding, granted the motion and upon the record and all proceedings held in this matter makes the following:

### **FINDINGS OF FACT**

1. Jessica Tushaus, V.T., was born on September 14, 1981, and is duly licensed to practice veterinary medicine in the state of Wisconsin pursuant to license number 9901640. This license was first granted on August 9, 2005.

2. Respondent's most recent address on file with the Wisconsin Examining Board is 8586 North Servite Drive, Milwaukee, WI 53223.

3. During August 2009, Respondent was working as a veterinary technician at Brown Deer Animal Hospital in Milwaukee, Wisconsin.

4. On August 3, 2007, the Respondent went to the M&I Bank in Wisconsin Dells to cash a \$1,000 check made out to her from the account of Richard and Carol Tushaus, her grandparents, and signed by Carol Tushaus. The bank cashed the check.

5. A second time on August 3, 2007, the Respondent returned to M&I Bank with another check for \$4,600, also from the account of the Respondent's grandparents and signed by Carol Tushaus.

6. While Respondent was at the bank, the teller checked the bank signature card for Carol Tushaus and found that the signatures on the card did not match the signatures on either of the checks brought in by the Respondent on August 3, 2007. The teller called the police and the Respondent was arrested at the bank.

7. In October 2007, the Respondent pled guilty to theft and receiving stolen property, and she was ordered to complete two years' probation, make restitution, and undergo an AODA assessment.

8. The Department of Corrections AODA intake assessment indicates that Respondent met the criteria of the Diagnostic and Statistical Manual IV for substance abuse with alcohol, cannabis, and cocaine. In the assessment process, Respondent reported daily use of crack cocaine.

9. For a period of weeks before August 29, 2009, Respondent's performance of her duties as a certified veterinary technician had slipped from a previously good level of performance. (T. 19:19 – 20:20.)

10. Respondent's duties as a veterinary technician for the Brown Deer Animal Hospital included working at the front desk, checking people [and their pets] in and out, working in the exam rooms with doctors, drawing blood, running blood through the blood machine, taking x-rays, setting up for surgery, cleaning instruments, and autoclaving instruments. (Tr. 22:5 – 11).

11. On Saturday, August 29, 2009, the Respondent reported to work at Brown Deer Animal Hospital in Milwaukee, Wisconsin approximately fifteen minutes late in an inebriated condition. (T. 12:12 – 13:9, 15:3 -8.)

12. A co-worker who needed assistance performing a nail trim on a dog requested that Respondent restrain the dog rather than perform the nail trimming because Respondent was crying and emotionally upset. During the nail trim, the coworker smelled a "very strong" odor of alcohol from Respondent. (T. 13:10 – 14:14.)

13. The co-worker owns and operates a Milwaukee tavern with her husband. The co-worker identified the odor of alcohol from Respondent on August 29, 2009, as rum, and probably a specific brand of spiced rum.

14. The co-worker reported Respondent's condition to their mutual employer. (T. 16:9 – 16:17.)

15. On Monday, August 31, 2009, Respondent told her employer that she had begun drinking again, and had been drinking on Friday, August 28, 2009. Her employer terminated Respondent's employment. (T. 18:3 – 14.)

16. On February 13, 2010, Respondent was arrested in Ozaukee County and charged with a second offense operating while under the influence of an intoxicant. Respondent entered a guilty plea to the offense on June 29, 2010.

17. Respondent failed to appear at the hearing of this matter on February 8, 2011, despite having a previous order of default entered against her in the same proceeding, which order of default was withdrawn on her petition so that she could file an Answer and defend. Respondent participated in the scheduling of the hearing for February 8, 2011, and the file in this matter shows that she was served a copy of the Division's witness list for the hearing.

### **CONCLUSIONS OF LAW**

1. The Wisconsin Veterinary Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 453.07(2).

2. Wis. Stat. § 440.03(1) provides that "the department [of Regulation and Licensing] may promulgate rules defining uniform procedures to be used by the department... and all

examining boards and affiliated credentialing boards attached to the department or an examining board, for... conducting [disciplinary] hearings.”

3. Pursuant Wis. Admin. Code § RL 2.14, “If the respondent ...fails to appear at the hearing at the time fixed therefor, the respondent is in default and the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence.”

4. Respondent’s failure to appear at the hearing on February 8, 2011, constitutes a default pursuant to Wis. Admin. Code s. RL 2.14.

5. By virtue of Respondent’s default, it is appropriate to deem the allegations of the Complaint admitted, and issue a decision based on the complaint and other evidence provided by the Division.

6. Pursuant to Wis. Stat. § 453.07(2), “...the examining board may, by order, reprimand any person holding a license, certificate or permit under this chapter or deny, revoke, suspend, limit or any combination thereof, the person’s license, certificate or permit if the person has: (a) engaged in unprofessional conduct.”

7. Pursuant to Wis. Stat. § 453.07(1)(c), ““unprofessional conduct” includes, but is not limited to: ...(c) Practicing veterinary medicine while the person’s ability to practice is impaired by alcohol or other drugs or physical or mental disability or disease.”

8. Wis. Admin. Code § 9.05, **Unprofessional conduct**, further defines unprofessional conduct to include: “(6) Practicing or attempting to practice while the veterinary technician had a physical or mental impairment, including impairment related to drugs or alcohol, which is reasonably related to the applicant’s ability to adequately undertake the practice of veterinary technology in a manner consistent with the safety of a patient or the public.”

9. Respondent’s conduct, as described in paragraph(s) 9 through 13 of the Findings of Fact, above, constitutes a violation of Wis. Stat. § 453.07(1)(c) and Wisconsin Administrative Code § VE 9.05(6), subjecting her to discipline pursuant to Wis. Stat. § 453.07(2).

## **DISCUSSION**

### **Violations of Wisconsin Statute and Administrative Code**

By defaulting, Respondent has conceded that all allegations contained within the Complaint are true. Wis. Admin. Code § 2.14. As such, it is undisputed that Respondent was diagnosed as having a substance problem in or about October of 2007, reported to work at Brown Deer Animal Hospital in Milwaukee in an inebriated condition on August 29, 2009, and on August 21, 2009, told her employer that she had started drinking again. When one considers the duties Respondent Tushaus performed as a veterinary technician at the Brown Deer Animal Hospital, it is obvious that her above conduct violates Wis. Stat. § 453.07(1)(c) and Wisconsin



Administrative Code § VE 9.05(6)(unprofessional conduct). (*See supra*). Respondent is thus subject to discipline pursuant to Wis. Stat. § 453.07(2)(a). The only question that remains is what kind of discipline is appropriate.

### **Appropriate Discipline**

As discipline for her above offenses, the Division requests the “standard impairment order,” namely, (1) a three month suspension of Respondent’s license to practice as a veterinary technician with no opportunity to stay said suspension, followed by, (2) an indefinite suspension of her license of not less than five years, during which Respondent would have the opportunity have her suspension stayed upon showing that she is moving forward with treatment. (T. 28:1 – 5, 28:12 – 29:17, *see also* Division’s Proposed Final Decision and Order).

In support of its recommendation, the Division notes that Respondent has a record of having a drinking problem, making “...it appropriate for the Veterinary Examining Board to step in and for the protection of the public health, safety and welfare, require... a current assessment, and if necessary, renewed treatment so that she can continue to practice the profession... with due safety.” (T. 26:3 – 10). The Division notes this is especially important given the nature of Respondent’s duties, and patients.

The undersigned ALJ agrees that Respondent’s conduct warrants an indefinite suspension of her license until she can demonstrate that she can safely practice as a veterinary technician, and thus finds the Division’s proposed order for discipline appropriate.

Indeed, the purpose of discipline is to (1) to promote the rehabilitation of the licensee; (2) to protect the public from other instances of misconduct; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206 (1976). Respondent’s conduct in (1) showing up to work in an inebriated state after having previously been diagnosed with substance abuse problems, (2) admitting to her employer that she had “started drinking again,” and (3) being arrested and charged with a second offense operating while under the influence of an intoxicant in February of 2010, evinces that she has not yet been rehabilitated, and thus still very much a danger to vulnerable veterinary patients. Her inability to participate in these proceedings only strengthens that concern. The relief requested by the Division is thus not only appropriate, but necessary to protect the public, (and their pets), from future instances of misconduct by the respondent. Requiring her to wait at least three months until she can petition the Board for a stay of her suspension will work to deter others from engaging in similar conduct, the third goal of discipline.

### **Assessment of Costs**

The Division requests that Respondent be ordered to pay the full costs of its investigation and of these proceedings. (Tr. 28:1 – 5).

In *In the Matter of Disciplinary Proceedings against Elizabeth Buenzli-Fritz* (LS 0802183 CHI), the Chiropractic Examining Board found that:

The ALJ's recommendation and the ... Board's decision as to whether the full costs of the proceeding should be assessed against the credential holder..., is based on the consideration of several factors, including:

- 1) The number of counts charged, contested, and proven;
- 2) The nature and seriousness of the misconduct;
- 3) The level of discipline sought by the parties
- 4) The respondents cooperation with the disciplinary process;
- 5) Prior discipline, if any;
- 6) The fact that the Department of Regulation and Licensing is a "program revenue" agency, whose operating costs are funded by the revenue received from licenses, and the fairness of imposing the costs of disciplining a few members of the profession on the vast majority of the licensees who have not engaged in misconduct;
- 7) Any other relevant circumstances.

The respondent, by nature of her being in default has not presented any evidence regarding any of the above factors that would mitigate the imposition of the full costs of this proceeding. To the contrary, her conduct is of a serious nature. The factual allegations were deemed admitted and proven and there is no argument to apportion any counts that were unproven (being none), or that certain factual findings were investigated and litigated that were unnecessary. Given the fact that the Department of Regulation and Licensing is a "program revenue," agency, whose operating costs are funded by the revenue received for licensees, fairness here dictates imposing the costs of disciplining the respondent upon the respondent and not fellow members of the chiropractic profession who have not engaged in such conduct."

For many of the same reasons as cited in the *Buenzli-Fritz* decision, Respondent Tushaus should be assessed the full amount of recoverable costs. Her alleged conduct is serious, there is no argument that certain factual findings were investigated and litigated unnecessarily, (on the contrary, Respondent forced this matter into hearing, and then defaulted), and given the program revenue nature of the Department of Regulation and Licensing, fairness again dictates imposing the costs of disciplining Respondent Tushaus on Respondent Tushaus, and not fellow members of the veterinary technician profession who have not engaged in such conduct. Payment of assessed costs will be necessary before Respondent's license can be reinstated pursuant to Wis. Stat. § 441.07(2). If the Board assesses costs against Respondent Tushaus, these amount of costs will be determined pursuant Wis. Admin. Code § RL 2.18.

## ORDER

IT IS ORDERED that the license previously granted to Respondent, Jessica Tushaus V.T. is SUSPENDED for an indefinite period.

IT IS FURTHER ORDERED, effective the date of this Order:

### SUSPENSION

- A.1. The license of Jessica Tushaus, V.T., to practice as a veterinary technician in the State of Wisconsin is SUSPENDED for three months (90 days) and then for an indefinite period.
- A.2. Respondent shall mail or physically deliver all indicia of licensure to the Department Monitor within 14 days of the effective date of this Order.
- A.3. Upon a showing by Respondent of continuous, successful compliance for a period of at least five (5) years with the terms of this Order, including at least 600 hours of active veterinary technician practice for every year the suspension is stayed, the Board may grant a petition by the Respondent under paragraph D.4. for return of full licensure. At the Board's discretion, the 5-year period may be started anew for every substantial or repeated violation of any provision of Sections C or D of this Order.
- A.4. The Board may, on its own motion or at the request of the Department Monitor, grant full licensure at any time.

### STAY OF SUSPENSION

- B.1. The suspension shall be stayed upon Respondent petitioning the Board and providing proof, which is determined by the Board or its designee to be sufficient, that Respondent is in compliance with the provisions of Sections C and D of this Order and that Respondent's Treater is of the opinion that Respondent is able to safely practice as a veterinary technician under the restrictions of this Order.
- B.2. The Board or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any provision of Sections C or D of this Order. Repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Board may, in conjunction with any removal of any stay, prohibit the Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:
  - (a) Mailing to Respondent's last-known address provided to the Department of Regulation and Licensing pursuant to Wis. Stat. § 440.11; or
  - (b) Actual notice to Respondent or Respondent's attorney.
- B.4. The Board or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Board or its designee.

- B.5. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. RL 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

## CONDITIONS AND LIMITATIONS

### Treatment Required

- C.1. Respondent shall enter into, and shall continue, in an inpatient drug and alcohol treatment with a Treater acceptable to the Board or its designee. Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.
- C.2. Respondent shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation, drug monitoring and treatment program as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as Treater, Respondent shall immediately seek approval of a successor Treater by the Board or its designee.
- C.4. The rehabilitation program shall require Respondent to take Antabuse and include inpatient individual and group therapy sessions at a frequency to be determined by Treater, but not less than once weekly for the first year of the stayed suspension. Therapy may end only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in the drug and alcohol treatment program. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

### Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Board, its designee, and any employee of the Department of Regulation and Licensing, Division of Enforcement to: (a) obtain all urine, blood and hair specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.

### AA/NA Meetings

- C.7. Respondent shall attend Narcotics Anonymous and/or Alcoholic Anonymous meetings or an equivalent program for recovering professionals, at the frequency recommended by Treater, but not less than one meeting per week. Attendance of Respondent at such meetings shall be verified and reported monthly to Treater and the Department Monitor.

### Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.

- C.9. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, Treater and the Board or its designee.
- C.10. Respondent shall abstain from all use of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation.
- C.11. Within 24 hours of ingestion or administration, Respondent shall report to Treater and the Department Monitor all medications and drugs, over-the-counter or prescription, taken by Respondent, shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs, and shall provide the Department Monitor with a copy of the prescription. If Respondent has not provided a release as required by C.9 above, within 24 hours of a request by Treater or the Board or its designee, Respondent shall provide releases in compliance with state and federal laws. The releases shall authorize the person who prescribed, dispensed, administered or ordered the medication to discuss Respondent's treatment with, and provide copies of treatment records to, the requester.

#### Drug and Alcohol Screens

- C.12. Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department pursuant to Wis. Adm. Code § RL 7.11 ("Approved Program"). A list of Approved Programs is available from the Department Monitor.
- C.13. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program – including any positive test for any controlled substance or alcohol – is a substantial violation of this Order. The requirements shall include:
- (a.) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
  - (b.) Production of a urine specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.14. The Approved Program shall require the testing of urine specimens at a frequency of not less than 24 times per year and one hair specimen during the first and each succeeding year of this Order. After the first year, the frequency may be reduced only upon a determination by the Board or its designee after receiving a petition for modification as required by D.4., below.
- C.15. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Treater or the Board or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.

- C.16. In addition to any requirement of the Approved Program, the Board or its designee may require Respondent to do any or all of the following: (a) submit additional urine specimens, (b) submit blood, hair or breath specimens, (c) furnish any specimen in a directly witnessed manner.
- C.17. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody.
- C.18. The Approved Program shall submit information and reports to the Department Monitor in compliance with the requirements of Wis. Adm. Code § RL 7.11.

#### Practice Limitations

- C.19. Respondent shall not practice as a veterinary technician in any capacity unless Respondent is in full compliance with the rehabilitation and treatment programs as specified and approved under this Order.
- C.20. Respondent shall practice only under the direct supervision of a licensed veterinarian approved by the Board or its designee and only in a work setting pre-approved by the Board or its designee.
- C.21. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel at all settings where Respondent works as a veterinarian or provides health care, currently or in the future.
- C.22. It is Respondent's responsibility to arrange for written reports from supervisors to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance, and shall include the number of hours of veterinary practice worked during that quarter.
- C.23. 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.

#### MISCELLANEOUS

- D.1. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor  
Wisconsin Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Ave.  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax: (608) 266-2264  
Telephone: (608) 267-3817  
[department.monitor@drl.state.wi.us](mailto:department.monitor@drl.state.wi.us)

#### Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order.

Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent. Additionally, every three (3) months the Respondent shall notify the Department Monitor of the Respondent's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.

#### Change of Treater or Approved Program by Board

- D.3. If the Board or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

#### Petitions for Modification of Limitations or Termination of Order

- D.4. Respondent may petition the Board for modification of the terms of this Order or termination, however no such petition for modification shall occur earlier than one year from the date of this Order, no such petition shall be made any earlier than three months from the date the Board has acted on the last such petition, and no such petition for termination shall occur other than in compliance with paragraph A.3. Any such petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.

#### Costs of Compliance

- D.5. 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. Being dropped from a program for non-payment is a violation of this Order.

#### Costs of Proceeding

- D.6. Respondent shall pay costs in an amount to be determined by the Board pursuant to Wis. Admin. Code § RL 2.18, to the Department of Regulation and Licensing, within ninety (90) days of this Order. In the event Respondent fails to timely submit any payment of costs, the Respondent's license # 9901640 SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

#### Additional Discipline

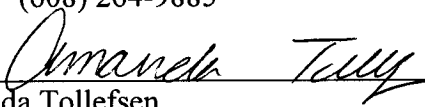
- D.7. In addition to any other action authorized by this Order or law, violation of any term of this Order may be the basis for a separate disciplinary action pursuant to Wis. Stat. § 453.07.

IT IS FURTHER ORDERED that the above-captioned matter be and hereby is closed as to Respondent Jessica Tushaus.

Dated at Madison, Wisconsin on March 7, 2011.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
5005 University Avenue, Suite 201  
Madison, Wisconsin 53705  
Telephone: (608) 266-7709  
FAX: (608) 264-9885

By: \_\_\_\_\_

  
Amanda Tollefsen  
Administrative Law Judge

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