

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

FINAL DECISION AND ORDER

TODD A. OSTRANDER, D.V.M.,
RESPONDENT.

ORDER 0001833

(DOE Cases 06 VET 56 and 07 VET 33)

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

Todd A. Ostrander, D.V.M.
15226 West County Road B
Hayward WI 54843

Division of Enforcement
Department of Safety and Professional Services
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Veterinary Examining Board
Department of Safety and Professional Services
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Procedural History

The Division of Enforcement filed a complaint in this matter on November 17, 2011. Dr. Ostrander, represented by W. Patrick Sullivan, filed an answer on December 5, 2011. The matter was assigned to Administrative Law Judge Jennifer Nashold. A prehearing conference was held and Judge Nashold issued a scheduling order on December 21, 2011, setting the matter for hearing on June 19 and 20, 2012. The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Veterinary Examining Board. The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

Findings of Fact

1. Todd A. Ostrander, D.V.M., ("Respondent") was born on August 13, 1958, and is licensed to practice veterinary medicine in the state of Wisconsin pursuant to license number 50-3618. This license was first granted on September 12, 1990.
2. Respondent's most recent address of record with the Wisconsin Veterinary Examining Board is 15226 W. County Road B, Hayward, WI 54843.
3. At all times relevant to this proceeding, Respondent was practicing veterinary medicine at Hayward Animal Hospital, in Hayward, Wisconsin.
4. On January 4, 2006, Respondent saw Jake, an eight year old intact male golden retriever, for complaints of weight loss, anorexia, and lethargy.
5. On palpation, Respondent diagnosed a grossly enlarged prostate and prescribed a course of SXT, a broad spectrum antibiotic. Respondent administered injections of Baytril, an antibiotic, Polyflex, an antibiotic, and Dexamethasone, a corticosteroid anti-inflammatory.
6. On January 9, 2006, Jake returned, still anorexic, with further weight loss. Respondent's documented physical examination was limited to checking Jake's weight and a re-check of the prostate gland, which was still enlarged. Respondent changed the antibiotic to ciprofloxacin, and administered intra-muscular injections of Baytril, Polyflex, and Tripelannamine, an antihistamine. Respondent also prescribed and dispensed DES, diethylstilbestrol, estrogen, to shrink Jake's prostate. Respondent also took two radiographs, one of the chest and one of the abdomen. Respondent included neoplasm on his list of differential diagnoses.
7. On January 11, 2006, Jake returned to Respondent. Respondent noted that Jake was shaking, and had a temperature of 104° F. despite the antibiotic therapy. Respondent dropped neoplasm from his differential diagnosis, and added blastomycosis. Respondent noted that Jake's prostate was "still huge" and noted stool retention behind the prostate. Respondent kept Jake in the clinic overnight, and administered Baytril, Polyflex, Tripelannamine and Amphotericin B, an antifungal. He prescribed Ketocanazole, an

antifungal, for administration by the owners at home. Respondent also took two radiographs, one of the chest and one of the pelvis.

8. Amphotericin B causes kidney damage, and in 2006, was not an appropriate first treatment for fungal infections that were not immediate threats to the life of the canine patient.
9. Respondent did not do a urinalysis, an ultrasound examination, and did not make any referrals.
10. On January 12, 2006, Respondent administered Itraconazole, an antifungal, and prescribed Itraconazole 100 mg. BID. Respondent also administered Baytril, Polyflex, and Tripelannamine.
11. On January 13, 2006, Respondent noted that Jake was slow to eat, and administered 18 mg. of Amphotericin B. Respondent also administered Baytril, Polyflex, and Tripelannamine. He discharged Jake, and directed that Jake be given Ketaconazole, 300 mg. twice each day, and continue with antibiotic treatment by Ciprofloxacin, 500 mg. twice each day.
12. Respondent saw Jake again on January 17, 2006. His notes include no diagnosis. Respondent documented that Jake was still not eating, but was active and had more energy. Respondent noted that Jake's prostate was "down ½ of original size" and administered Baytril, Tripelannamine, and Polyflex.
13. Jake returned on Friday, January 20, 2006. His weight was down to 69.6 pounds, and his owners reported that he was refusing his medications and not eating much. Respondent noted that he was "eating good," and in another section of the same note, Respondent documented that Jake was "not eating much" and documented "prostate good progress." Respondent documented that he injected Baytril for the prostate, and directed that the owners should start a new round of ciprofloxacin on Sunday, January 22, and that they should bring Jake back on Monday, January 23.
14. On January 23, 2006, Respondent evaluated Jake for possible Blastomycosis. The owners reported that they had been hand-feeding the dog in hopes of the dog gaining weight, which had increased from the previous visit to 72.6 lbs. Respondent reexamined the dog

and gave him an antibiotic injection and prescribed Nizoral 200 mg and Ciprofloxacin 250 mg. He noted enlarged prostate and stated no diagnosis in his notes. The Respondent's notes state the dog's prostate is near normal, he is eating well and starting to gain back weight. Antifungal therapy continued, broad spectrum antibiotic therapy is continued and Jake's temperature was normal.

15. On February 3, 2006, the dog returned for a checkup. The dog was drinking and urinating heavily. The owners continued to hand feed him and his weight was up to 77.8 lbs. The records say the dog was only eating people food. The Respondent reexamined the dog and found less huffing, more activity and normal prostate. He gave the dog an injection Baytril, and prescribed Ciprofloxacin 500 mg and Ketoconazole, an anti-fungal medication, 200 mg.
16. On February 27, 2006, the owners returned the Ketoconazole 200 mg for a credit.
17. On March 20, 2006, the dog returned to the Respondent with a cough and trembling. According to the owners, the dog's weight was 81.1 lbs, but the patient history report lists the dog's weight as 77.8 lbs. The Respondent reexamined the dog, conducted a thyroid screen T-4, took additional x-rays and gave him an antibiotic injection. The Respondent's notes state the dog gained 12 lbs., his prostate was normal, miliary pattern in lungs is gone and dog was taken off medication.
18. On March 21, 2006, the thyroid screen results came back as normal.
19. On April 21, 2006, the dog returned to the Respondent for a routine checkup, bath and fecal. The Respondent noted the dog was gaining weight. The Respondent's notes state the prostate was normal, and lungs were clear.
20. On June 5, 2006, the dog returned with hot spots. The Respondent diagnosed moist dermatitis, gave him an injection of Baytril and one of Dexamethasone, a steroid anti-inflammatory, and prescribed Ciprofloxacin 500 mg. The dog's weight was up to 84.8 lbs.
21. On July 28, 2006, the dog returned for booster shots and a checkup. The dog weighed 83.3 lbs. The Respondent noted the prostate enlarged and he prescribed neutering after administration of medications. His diagnosis was prostatitis and prescribed Ciprofloxacin 250 mg.
22. On July 31, 2006, the owners returned the Ciprofloxacin for a credit because they already had a supply from overlapping prescriptions.

23. On August 4, 2006, the owner called the Respondent because the dog was depressed, lethargic and not eating. The Respondent stopped the Ciprofloxacin and changed the prescription to Cephalexin 500 mg.
24. On August 14, 2006, the dog presented due to lameness in the right rear leg and anorexia. His weight was 78.7 lbs. The Respondent conducted a 9-panel chemistry, CBC and x-rays followed by an injection of Baytril, one of Dexamethasone, IV of subcutaneous fluids and a bath. The Respondent explained that he diagnosed the dog with Ehrlichiosis. He stopped the Cephalexin 500 mg and prescribed Doxycycline 100 mg.
25. According to the Respondent, the dog presented with a grossly swollen hock, fever of 103.6, anorexia, neutrophillia and increased amylase. Respondent took radiographs, and diagnosed of septic arthritis on the hock, as well as pancreatitis. Dog was fasted and treated with broad spectrum antibiotics.
26. The lesion visible on Respondent's radiograph of Jake's hock is on the distal tibia, and not on the joint.
27. Arthritis is a disease affecting joints, not long bones.
28. On August 18, 2006, the dog returned for a checkup. His weight dropped to 78 lbs. The Respondent noted swelling is down in the leg, fever reduced, joint still enlarged but stable, 80% weight bearing. He also ordered to continue Doxycycline and recheck on Monday.
29. On August 21, 2006, the dog presented for the scheduled neuter. The dog was dropped off at 7:30 a.m. His weight was down to 78.7 lbs. Around 8:00 a.m., the owner asserts that he called and expressed concern about the dog being neutered in his current condition and whether the surgery was necessary. The office staff told the owner they would consult with the Respondent and then call to discuss the surgery. Respondent asserts that he was not told of the owners' telephone call.
30. The owners assert that they called the clinic at approximately 11:00 a.m. to speak with the Respondent, but he was already in surgery with the dog, and further assert that the clinic called when the surgery was over and told the owner she could pick up the dog. The owners arrived at the clinic to pick up the dog at 4:00 p.m. The office staff discovered the dog not fully recovered from anesthesia, and Respondent kept him for additional treatment and hospitalization overnight. There is no indication in the records that hospitalization involved any observation of the dog.

31. Before Respondent left the dog alone for the night, he administered IV fluids, and an inter-articular injection of Polyflex, 200 mg, an antibiotic, and Gentocin, an antibiotic, in the hock joint. Respondent also administered Polyflex 750 mg. by intramuscular injection.
32. Respondent did not aspirate the joint, or take other steps to identify the source of the septic arthritis that he diagnosed, or to attempt to ascertain that the condition he was treating was arthritis.
33. While the dog was anesthetized for the neuter surgery, Respondent also performed a dental prophylaxis.
34. There is no indication anywhere in Respondent's records that Respondent discussed the increased risk of morbidity or death to Jake from performing a dental prophylaxis at the same time as the neuter surgery, and no indication that the owners consented to the dental prophylaxis, and no indication that there was any emergency that imperatively required that Jake be subjected to the additional risk of morbidity or mortality inherent in undergoing unrelated surgery at the same time as a dental prophylaxis.
35. On August 25, 2006, the dog presented for lameness of his right hind leg and because the neutering incision was inflamed. The Respondent noted that the dog's temperature had increased, his leg swelling persisted, and that he was huffing, a sign of respiratory distress. Respondent took a chest radiograph, which he interpreted as showing no large blastomycosis lesions; nonetheless, Respondent administered Amphotericin B, and prescribed Itraconazole, an anti-fungal medication.
36. There is no indication in Respondent's records why he chose Amphotericin B, with its known renal toxicity, in the absence of any definitive diagnosis of blastomycosis, or why Respondent chose not to attempt any definitive diagnosis of blastomycosis before subjecting Jake to the increased risk of renal failure consequent to Respondent's use of Amphotericin B, nor is there any indication that he discussed the risks of the use of Amphotericin B before administering the drug.
37. On May 24, 2007, a 7-year-old Norfolk terrier, Jazz, was presented to Dr. H., a veterinarian in Hayward, Wisconsin, with a history of persistent cough that existed for one week. Dr. H. examined Jazz, and detected a mitral valve murmur on auscultation of the heart. Jazz had no fever with a temperature of 102.2°. Dr. H. discussed the possibility of heart failure with the owner, and prescribed a trial of Temaril-P, an antihistamine/anti-inflammatory/anti-tussive, to rule out allergic bronchitis.
38. Five days later, on May 29, 2007, Jazz, was brought to Respondent by her owner, who told Respondent that Jazz had collapsed at home that morning, after suffering a

persistent cough. Her owner told Respondent that Jazz had been seen by another veterinarian for the cough several days earlier, and that the cough had been on-going for more than a week. Respondent documented that Jazz was coughing, retching, and wheezing. Respondent also noted that the condition of the dog's general appearance and mucous membranes were abnormal, but he did not make any note of any objective observation.

39. While in the exam room, Jazz coughed up sputum with some blood. The Respondent examined a sample of the mucus under a microscope and ruled out Blastomycosis, but diagnosed carcinoma due to the presence of numerous squamous cells in the sputum sample.
40. The oral cavity and throat of a dog normally have large numbers of squamous cells, and any sputum coughed up by a dog would be expected to contain squamous cells as a result of travelling through the throat and oral cavity.
41. The Respondent took the dog's temperature rectally, but did not make a note of the temperature and did not note whether she had a fever.
42. Respondent took several x-rays, and made a differential diagnosis of bronchopneumonia/respiratory carcinoma. While reviewing the x-rays, the Respondent told the owner that the dog was very sick with pneumonia and needed immediate treatment with antibiotics and anti-inflammatory steroids.
43. The owner agreed to have the antibiotics administered and asked if he could care for the dog at home. The Respondent said it was not a good idea to care for the dog at home because she would get more rest at the clinic; the owners asserts that Respondent said that he or someone else would be there to administer oxygen as needed. The owner left the clinic at about 11:00 a.m.
44. Respondent administered Baytril, an antibiotic; Polyflex, a broad spectrum anti-biotic, Dexamethasone, an anti-inflammatory steroid, and Tripelannamine, an antihistamine.
45. At 4:00 p.m., the owner called the clinic to check on the dog; the clinic said the dog was resting and had not eaten.
46. On May 30, 2007 at 7:15 a.m., the owner called the clinic to check on the dog; the clinic told him the dog passed away. At 8:30 a.m., the owner arrived at the clinic to pick up the dog's body. He asked who was on duty the night before. The person working told him that the doctor might have stopped in, but that there had been no one on duty overnight.

47. About two weeks after the dog's death, the Respondent telephoned the owner. The owner asked why no one was present at the clinic to administer oxygen overnight. The Respondent told him it would have been more money if overnight treatment had been rendered.
48. Respondent informed the Division of Enforcement during the investigation of this matter that he did not provide any oxygen to the dog because he believed that the dog was so critically ill from bleeding into its lungs that any handling might be fatal to the dog.
49. Respondent had the owner sign a long consent for treatment, including a six part question:
- Have you talked with your hospital staff about
1. The reasonable medical and/or surgical treatment options for your pet
 2. Sufficient details of the procedures to understand what will be performed
 3. How fully your pet will recover and how long it will take
 4. The most common and serious complications
 5. The length and type of follow up care and home restraint required
 6. The estimate of fees for all services
50. Despite the form, Respondent did not inform the owner that no respiratory support would be provided to or available to Jazz, that the overnight hospital stay did not include any care or even observation of the dog, that the dog was in respiratory distress, that other clinics or hospital would provide oxygen to the dog to help her breathe, or that other clinics or hospitals would provide observation and care for the dog overnight.
51. At the time, blastomycosis could not be definitively ruled out as the cause of critical respiratory distress in a dog without performing a fungal titer on a sample of the dog's blood.
52. The diagnosis of bacterial pneumonia in the absence of a fever requires the identification of a bacterial infection.
53. The diagnosis that an animal is bleeding into its lungs requires an analysis of the animal's hematocrit, or other proof that fluid in the animal's lungs is actually blood.
54. Observation alone is not an acceptable veterinary treatment for an animal that is suffering from oxygen deprivation.

55. The suspicion of internal bleeding is a veterinary medical emergency that requires immediate diagnosis and treatment or referral to a veterinarian who is able and willing to diagnose and treat the animal with emergency intensive care.
56. A minimally competent veterinarian would distinguish the difference between a patient that was moribund from untreated oxygen deprivation or internal bleeding and patient that was resting in its cage.

Conclusions of Law

1. The Veterinary Examining Board has jurisdiction in this matter pursuant to Wis. Stat. § 453.07.
2. Respondent's failure to perform or document complete physical examinations of his patients, as described above, constitutes violation of Wis. Admin. Code § VE 7.06(15).
3. Respondent's failure to perform sufficient physical and laboratory examinations of his patients to either diagnose or rule out medical conditions, as described above, constitutes violation of Wis. Admin. Code § VE 7.06(1).
4. Respondent's use of medications without clear justification for their use, as described above, constitutes violation of Wis. Admin. Code § VE 7.06(1).
5. Respondent's failure to fully inform his clients of the options for diagnosis and treatment of their animals, and the risks and benefits of those diagnostic and therapeutic options, or refer his clients to a veterinarian for other treatment, as described above, constitutes violation of Wis. Admin. Code § VE 7.06(1).

Order

NOW, THEREFORE, IT IS ORDERED THAT

1. Todd A. Ostrander is REPRIMANDED.
2. The license previously issued to Todd A. Ostrander is LIMITED by the conditions that

- a. he shall successfully complete six (6) hours of continuing veterinary education in the topic of diagnosis and treatment of acute respiratory conditions in companion animals,
 - b. he shall successfully complete six (6) hours of continuing veterinary education in the topic of radiography for companion animals,
 - c. he shall successfully complete six (6) hours of continuing veterinary education in the rationale for and selection of medical therapy for companion animals; the focus of the education shall be evenly divided between antibiotics and steroids.
 - d. he shall successfully complete two (2) hours of continuing veterinary education in the topic of veterinary medical records for companion animals.
3. Respondent shall be responsible for locating the course(s) required under this Order, for providing adequate course descriptions to the Department Monitor, and for obtaining pre-approval of the courses from the Wisconsin Veterinary Examining Board, or its designee, prior to commencement of the programs. All costs of the educational programs shall be the responsibility of the Respondent. Completion of these courses may not be credited toward any other continuing education requirement to which Respondent may be subject. For purposes of this Order, the Board's designee is

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

4. Within thirty (30) days following completion of the course(s) required by this Order, Respondent shall file with the Department Monitor certifications from the sponsoring organization(s) verifying her completion of the courses.

5. Respondent shall, within ninety (90) days from the date of this Order, pay costs of this proceeding in the amount of FOUR THOUSAND SEVEN HUNDRED

dollars (\$4700.00). Payment shall be made payable to the Wisconsin Department of Safety and Professional Services, and mailed to:

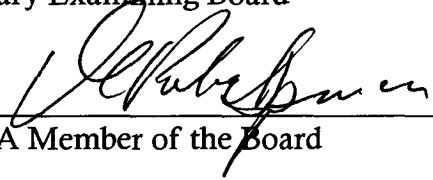
Department Monitor
Division of Enforcement
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

6. 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 timely submit payment of the costs or fails to comply with the ordered continuing education as set forth above, the Respondent's license (# 50-3618) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs or completion of the continuing education.

7. This Order is effective on the date of its signing.

Veterinary Examining Board

By:


A Member of the Board

6-13-12
Date