

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services 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 Safety and Professional Services 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 Safety and Professional Services 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 Safety and Professional Services, 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 Safety and Professional Services 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 DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF A PETITION FOR AN :
ADMINISTRATIVE INJUNCTION INVOLVING :
: ADMINISTRATIVE INJUNCTION
BRIAN PONEK, :
RESPONDENT. :

0002471

Division of Legal Services and Compliance¹ Case No. 12 UNL 140 (VET)

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

Brian Pionek
E7535 Marshall Ave.
Strum, WI 54770

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

Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Department of Safety and Professional Services (Department). The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Upon information and belief, Respondent Brian Pionek's address for purposes of service is E7535 Marshall Avenue, Strum, Wisconsin 54770.
2. Respondent Brian Pionek is not and has never been licensed to practice veterinary medicine in the State of Wisconsin.

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

3. At all times relevant to these proceedings, Respondent has been employed as an artificial insemination technician with Northstar Cooperative. Respondent has been employed by Northstar Cooperative since 2002.

4. Respondent services ten dairy farms or approximately 3,000 cows every day, and oversees approximately 500 artificial inseminations every month. Respondent uses a combination of prostaglandin (Estrumate, Lutalyse, or Esto-Plan) and gonadotropin releasing hormone (GrNH-Cystorelin) injections to synchronize estrus in cows so they can be artificially inseminated.

5. Respondent routinely palpates a cow's reproductive tract to determine whether the cow is in the proper stage of the estrous cycle (heat). This is a physical examination performed to diagnose a physical condition that only a licensed veterinarian can perform.

6. Respondent routinely performs pregnancy checks on cows that have been previously diagnosed as pregnant, but appear to be showing signs of heat. Respondent states that he performs few pregnancy checks at each dairy farm that he visits, but he does admit that at one dairy farm he did perform 20 – 30 pregnancy checks. Respondent transrectally palpates each cow to determine whether they are pregnant. A pregnancy check is a physical examination performed to diagnose a physical condition that only a licensed veterinarian can perform.

7. Only a licensed veterinarian can prescribe and dispense prescription medications to treat physical conditions in animal patients. Respondent routinely diagnoses physical conditions in cows, advises dairy farmers of the treatment for those physical conditions, and then prescribes medications to treat those physical conditions or administers those medications, as follows:

a. Respondent has admitted that when he observes a cow with nymphomaniac tendencies, which means that they may have a cystic ovary, he advises the administration of GnRH-Cystorelin.

b. Respondent has admitted that when he recognizes that a cow has bleed out, but not yet been artificially inseminated, he advises the administration of prostaglandin (Estrumate, Lutalyse, or Esto-Plan) so that in one week the cow will be brought back into heat.

c. Respondent has admitted that when a young and lactating cow has not yet come into heat, Respondent advises the administration of prostaglandin (Estrumate, Lutalyse, or Esto-Plan) to bring the cow into heat. If that does not work, then Respondent advises to start the cow on an Ovsynch protocol. The dairy farmers then follow Respondent's treatment recommendations. Respondent administers the medications that he had prescribed to treat those conditions.

8. A dairy farmer gave Respondent Estrumate because the farmer had mistakenly ordered too much and wanted to get rid of his oversupply before it expired. Respondent then dispensed the Estrumate to other dairy farmers without a valid prescription order from a

veterinarian. Only a licensed veterinarian can prescribe and dispense prescription medications to treat physical conditions in animals.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Safety and Professional Services has jurisdiction in this matter pursuant to Wis. Admin. Code ch. SPS 3 and Wis. Stat. § 440.21, and is authorized to enter into the attached Stipulation and Order pursuant to Wis. Stat. § 227.44(5).

2. Wis. Stat. § 453.01(6) defines the practice of veterinary medicine to mean “to examine into the fact or cause of animal health, disease or physical condition, or to treat, operate prescribe or advise for the same...”

3. By the conduct described in the Findings of Fact, Respondent has engaged in the practice of veterinary medicine without a license in violation of Wis. Stat. § 453.05(1) by:

- a. Diagnosing pregnancy as a physical condition and diagnosing cows that were not pregnant, also a physical condition;
- b. Palpating a cow to determine heat;
- c. Diagnosing whether cows have cystic ovaries;
- d. Prescribing, dispensing, and administering prescription medications to treat physical conditions; and
- e. Giving advice as to the treatments for those conditions, advising of the medications to use to treat those conditions, and then treating those conditions.

ORDER

1. The attached stipulation is accepted.

2. Unless and until Respondent is licensed to practice veterinary medicine by the Wisconsin Veterinary Examining Board, Respondent is enjoined and prohibited from the practice of veterinary medicine in the State of Wisconsin.


3. Violation of this special order may result in a forfeiture of up to \$10,000 for each day of violation. *See* Wis. Stat. § 440.21(4)(a).

4. If the Department determines that there is probable cause to believe that Respondent has violated any terms of this Administrative Injunction, the Department may refer the violations covered by this decision and order to any appropriate prosecutorial unit, including but not limited to a district attorney for the county in which Respondent resides or the action has taken place, or the Department of Justice, for review of possible criminal charges.

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

Issued at Madison, Wisconsin, this 11th day of June, 2013.

By:



Michael J. Berndt, Chief Counsel

On behalf of the Department of Safety and Professional Services