

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
ROGER H. NEWMAN, D.V.M, :
RESPONDENT. :

0004164

Division of Legal Services and Compliance Case No. 14 VET 010

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

Roger H. Newman, D.V.M.
8451 State Hwy 13 South
Wisconsin Rapids, WI 54494

Wisconsin Veterinary Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

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 Veterinary Examining Board (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Roger H. Newman, D.V.M., (dob December 20, 1949) is licensed in the state of Wisconsin to practice veterinary medicine, having license number 1402-50, first issued on January 1, 1974 and with registration current through December 14, 2015. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 8451 State Hwy 13 South, Wisconsin Rapids, Wisconsin 54494.

2. At all times relevant to this proceeding, Respondent was employed as a veterinarian in Wisconsin Rapids, Wisconsin.

3. In approximately December 2012, Respondent saw Max, a two-year old male bichon fries for kennel cough. Respondent administered a vaccine. Respondent did not create a veterinary treatment record, but kept a record of the vaccine on his computer at his residence.

4. On December 10, 2013, Respondent neutered Max. Before performing the procedure, Respondent failed to explain to the owner the risks of surgery, including risks associated with anesthesia. He explains that he thought the owner understood the risks of the surgery because she asked for the procedure.

5. Respondent exposed the testicles, ligated the spermatic cord with 3-0 stainless steel surgical wire, and sutured the skin with 4-0 surgical wire. Respondent did not maintain a full record of the surgical procedure, including a record of the anesthesia and vital signs.

6. When Respondent checked Max later that afternoon, Respondent noted that the proximal ¼ inch of the incision was open. Respondent assumed that Max was licking it. Respondent then taped and glued the incision shut to protect it from further damage.

7. After surgery, Respondent told the owner to keep the bandage on for a week, to call if she saw any problems, and then to bring Max back in two weeks to have his stitches removed. Respondent did not tell the owner about the issue with the open incision.

8. Respondent did not offer or order an Elizabethan collar to protect the suture site, nor did he provide written post-operative instructions.

9. On December 11, 2013, Max continued to lick the bandage area, made no effort to eat or drink, did not leave his kennel and had a swollen scrotum. When Max stood up, he stared straight ahead and made no effort to move.

10. When Max's owner called the clinic to report Max's condition, Respondent's staff told the owner the swelling was the result of Max licking his suture. The staff person told Max's owner that if the owner stopped Max from licking the suture, the swelling would subside.

11. On December 12, 2013, Respondent examined Max. Respondent removed the tape and told the owner some pets are sensitive to the tape. Removing it, he said, would help stop Max from licking the wound if Max was sensitive to the tape.

12. Max's owner asked how she could stop Max from licking the wound site and Respondent told her that she really couldn't do anything, and "that's just what dogs do." He did not offer her the option of using an Elizabethan collar.

13. Respondent gave Max an antibiotic injection and used a Q-tip to apply dimethyl-sulfoxide (DMSO) on the wound.

14. Respondent sent some of the DMSO home with Max and his owner, but did not identify it, nor did he fully label the container. Respondent told the owner to apply the DMSO

twice a day with the Q-tip. He said the owner should keep Max from licking the ointment for the first few minutes after it was applied.

15. The manufacturer of DMSO cautions that human beings should wear rubber gloves when applying DMSO. DMSO can be dangerous to humans when it is unintentionally mixed with other substances as may happen in part because of DMSO's penetrating properties.

16. Respondent did not caution Max's owner to wear rubber gloves when applying the ointment, nor did he explain risks associated with DMSO in humans. Respondent contends that he adequately informed Max's owner on the use of DMSO because he showed the owner how to apply it with a Q-tip. He does not believe DMSO is harmful to humans.

17. Respondent told Max's owner that the swelling should go down in a day or two.

18. On December 13, 2013, having noticed no change in Max's condition, the owner took Max to another veterinarian. The subsequent veterinarian examined Max and observed a severely swollen, firm and bruised scrotum. The distal aspect of the pre-scrotal incision had dehiscd approximately 1cm and there was purulent discharge. The cranial aspect of the incision remained apposed with 2 steel sutures.

19. The subsequent veterinarian found that Max's scrotum was filled with a hematoma. She started Max on a course of antibiotics and non-steroidal anti-inflammatory medication.

20. The subsequent treating veterinarian fitted Max with an Elizabethan collar and ordered that it remain. Max fully recovered.

21. In resolution of this matter, Respondent neither admits nor denies the allegations, however consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Veterinary Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 453.07(2), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By failing to document Max's first visit, and failing to document vital signs, medications dispensed and other information pertaining to Max's surgery, Respondent violated Wis. Admin. Code § VE7.03(2), which is unprofessional conduct as defined by § VE 7.06(15).

3. Respondent performed surgery on Max without discussing the risks of the surgical procedure including risks associated with anesthesia. Respondent dispensed a medication to Max's owner without discussing the medication's potential risk to humans. Respondent therefore engaged in unprofessional conduct as defined by Wis. Admin. Code § VE 7.06(23).

4. As a result of the above violations, Roger H. Newman, D.V.M., is subject to discipline pursuant to Wis. Stat. §§ 453.07(1)(b) and (2)(a).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Roger H. Newman, D.V.M., is REPRIMANDED.
3. The veterinary medicine license issued to Roger H. Newman, D.V.M., (license number 1402-50) is LIMITED as follows:
 - a. Within six months of the date of this Order, Respondent shall successfully complete 6 hours of remedial education on the subject of record keeping, 6 hours of remedial education on the topic of post-surgical complications and 3 hours of education on the subject of informed consent or interpersonal communications.
 - b. The course(s) must be pre-approved by the Board's designee. Successful completion requires that Respondent take and pass any exam offered for the course(s). Courses taken without preapproval may NOT be used to satisfy the remedial education requirements of this Order.
 - c. Within thirty days of completion of preapproved remedial education, Respondent shall submit proof of successful completion in the form of verification from the institution or organization that provided the education.
 - d. None of the remedial education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department.
 - e. The Department shall remove this limitation from Respondent's license when Respondent has satisfied the Board's designee that Respondent has successfully completed the preapproved education.
4. Within 90 days from the date of this Order, Roger H. Newman, D.V.M., shall pay COSTS of this matter in the amount of \$364.42.
5. Request of approval of courses, proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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 costs as ordered or fails to submit proof of successful completion of the ordered education as set forth above, Respondent's license (no. 1402-50) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of costs and completion of the education.

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

WISCONSIN VETERINARY EXAMINING BOARD

by: P. C. Johnson DVM
A Member of the Board

7/29/15
Date

STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ROGER H. NEWMAN, D.V.M.,
RESPONDENT.

:
:
:
:
:

STIPULATION

:
0004164

Division of Legal Services and Compliance Case No. 14 VET 010

Respondent Roger H. Newman, D.V.M., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Attorney Joseph Wirth.


4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Veterinary Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.


6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.


8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Roger H. Newman, D.V.M., Respondent
8451 State Hwy 13 South
Wisconsin Rapids, WI 54494
License no. 1402-50

7-23-15
Date


Joseph M. Wirth, Attorney for Respondent
Piper, Schmidt & Wirth
732 North Jackson Street, 4th Floor
Milwaukee, WI 53202

7/24/15
Date


Sandra L. Nowack, Prosecuting Attorney
State Bar Number 1025643
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P.O. Box 7190
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Tel. (608) 266-8098
sandra.nowack@wisconsin.gov

7/28/15
Date