STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER (97 VET 38)
J. MARK BEVERLY, D.V.M. RESPONDENT	:	L9712104VET

Parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

J. Mark Beverly, D.V.M.
1054 Hwy C
Grafton, Wisconsin 53024

State of Wisconsin
Veterinary Examining Board
P.O. Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement

P.O. Box 8935
Madison, Wisconsin 53708-8935

The parties in this matter, J. Mark Beverly D.V.M. personally, and through his attorney, Robert J. Dreps and Pamela M. Stach, Attorney for Complainant, agree to the terms and conditions of the attached Stipulation as final disposition of this matter, subject to the approval of the Veterinary Examining Board.

The Board has reviewed the Stipulation and considers it acceptable.

Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. J. Mark Beverly, Respondent herein, of 1054 Hwy C, Grafton, Wisconsin 53024, whose date of birth is December 12, 1954, is duly licensed to practice veterinary medicine in the State of Wisconsin under license number 2348, which was granted on June 16, 1982.

2. Respondent maintained a solo practice in the specialty area of equine medicine.

3. On December 6, 1995, the Veterinary Examining Board entered a Final Decision and Order whereby Respondent's license to practice veterinary medicine in the State of Wisconsin was suspended for ten days and thereafter limited for a period of six months during which time, Respondent was to successfully complete a program at the University of Wisconsin School of Veterinary Medicine in the areas of timely response to and treatment of post-casting complications in horses. A copy of the Final Decision and Order is attached hereto as Exhibit A.

4. Respondent had not completed the required course as of June 6, 1996.

5. On September 26, 1996, Respondent petitioned the Veterinary Examining Board requesting that the educational requirement be waived.

6. Prior to consideration of this Petition, the Veterinary Examining Board received a second Petition from Respondent withdrawing the request for a waiver and instead requesting an extension of time to complete the educational requirement.

7. On November 13, 1996 the Veterinary Examining Board considered the petition and granted an extension until May 14, 1997 for Respondent to fulfill the terms of the limited license.

8. On May 9, 1997, Respondent provided a letter to the Department of Regulation and Licensing Monitor from T. N. Phillips, D.V.M. who indicated a willingness to provide an educational course in casting procedures and appropriate aftercare.

9. On August 25, 1997 Respondent, through his attorney Robert Dreps, advised the Veterinary Examining Board that he has decided to voluntarily relinquish his license to practice veterinary medicine in the State of Wisconsin based on medical reasons. Respondent further advised the Board that he had surrendered his Illinois license to practice veterinary medicine in that state for similar reasons. A copy of the letter from Attorney Dreps is attached hereto as Exhibit B.

10. Respondent has not practiced veterinary medicine in the State of Wisconsin since December of 1996.

CONCLUSIONS OF LAW

1. The Wisconsin Veterinary Examining Board has jurisdiction in this matter pursuant to Wis. Stats. Ch. 453.

2. The Wisconsin Veterinary Examining Board has the authority to resolve this matter by stipulation pursuant to Wis. Stats. sec. 227.44(5).

ORDER

NOW THEREFORE IT IS ORDERED, that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that the voluntary surrender of the license of J. Mark Beverly D.V.M. to practice veterinary medicine in the State of Wisconsin is hereby accepted.

IT IS FURTHER ORDERED that, in the event J. Mark Beverly, D.V.M. wishes to resume the practice of veterinary medicine in the State of Wisconsin at a future date, he shall appear before the Veterinary Examining Board to request the right to reapply and to satisfy the Board as to his competence to resume practice. Evidence of competence may include, but not be limited to, any testing, evaluation, assessment or retraining the Board deems appropriate for the protection of the public prior to granting any license. In addition, at the time of any request for relicensure, Respondent shall advise the Board of the medical reasons for relinquishment of his license and the Board may consider those reasons along with the uncompleted terms of the December 6, 1995 Order in determining whether to grant Respondent relicensure and, if the license is granted, under what terms.

IT IS FURTHER ORDERED that in the event the Veterinary Examining Board denies J. Mark Beverly's request for licensure, Respondent shall be accorded the right to request a denial hearing under the provisions of Wis. Stats. sec. 227.01(3)(a). In the event the Board grants a limited license, such limitation shall not constitute a denial of a license within the meaning of Wis. Stats. sec. 227.01(3)(a) and Respondent may not request a hearing on the denial of full licensure or the terms of the limited license.

IT IS FURTHER ORDERED that investigative file 97 Vet 38 is hereby closed without further proceedings.

Dated this 10 day of [illegible], 1997.

STATE OF WISCONSIN
VETERINARY EXAMINING BOARD

Gilbert Lewis, D.V.M.
Chairman

STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

J. MARK BEVERLY, D.V.M.,

Respondent

ORDER EXTENDING DEADLINE

On December 6, 1995, the Veterinary Examining Board issued its Final Decision and Order in the above-captioned matter. By the terms of the board's order, respondent's license to practice as a veterinarian in Wisconsin was suspended for ten days, and was thereafter limited to require that within six months, Dr. Beverly complete an educational program in the areas of timely response to and treatment of post-casting complication in horses.

By letter dated September 26, 1995, Dr. Beverly, by Attorney Robert J. Dreps, requested that the continuing education requirement be waived. Subsequently, by letter dated October 16, 1996, Mr. Dreps dropped the request for a waiver, and instead requested an extension of time in which to fulfill the requirement. The board considered the request at its meeting of October 16, 1996.

Based upon respondent's request, and upon all other information of record herein, the board orders as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that the Final Decision and Order of the Board in the above-captioned matter dated December 6, 1996, is hereby modified to provide that the deadline for completing the continuing education requirement set forth at paragraph 1 of the Board's Order shall be May 14, 1997.

IT IS FURTHER ORDERED that all other terms and conditions of the board's December 6, 1995, Order shall remain in full force and effect.

Dated this 13th day of November, 1996.

STATE OF WISCONSIN VETERINARY EXAMINING BOARD

by Gilbert Lewis DVM
Gilbert Lewis, D.V.M., Chairman

WRA:9611133.doc

Exhibit A

STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
J. MARK BEVERLY, RESPONDENT.	:	91 VET 34

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

J. Mark Beverly, D.V.M.
1054 Hwy C
Grafton, WI 53024

State of Wisconsin
Veterinary Examining Board
P.O. Box 8935
Madison, WI 53708-8935

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

RECEIVED
DEC - 7 1995
Dept. of Regulation & Licensing
Division of Enforcement

A complaint commencing formal disciplinary proceedings was filed by the Division of Enforcement in this matter on March 31, 1995. Thereafter, the parties to this matter, J. Mark Beverly, D.V.M., personally, and through his attorney, Robert J. Dreps, and Pamela M. Stach, Attorney for Complainant, agreed to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Veterinary Examining Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. J. Mark Beverly, Respondent herein, of 1054 Hwy C, Grafton, Wisconsin 53024, whose date of birth is December 12, 1954, is duly licensed to practice veterinary medicine in the State of Wisconsin under License #2348, which was granted on June 16, 1982.

2. Respondent is a solo practitioner who specializes in the practice of equine medicine.

3. At all times relevant hereto, Respondent provided veterinary care and treatment to a four year old quarterhorse mare owned by Jill Rose.

4. On December 6, 1988, at approximately 4:15 p.m., Jill Rose noted an injury to the left rear leg of the mare approximately 3 to 4 inches below the hock.

5. On December 6, 1988, Ms. Rose contacted Joe Scoby, D.V.M., who examined the horse and diagnosed a left rear laceration of the horse's superficial flexor tendon. Dr. Scoby wrapped the leg, administered butazoladin, banamine and Crysticillin and referred Ms. Rose to the Respondent for possible casting of her horse's leg.

6. On December 6, 1988, Ms. Rose transported the mare to Respondent's clinic.

7. In the evening of December 6, 1988, Respondent examined the Rose horse. Respondent diagnosed a laceration with infection present at that time, administered dexamethasone SP, 30 cc. Penicillin IM and cultured the wound. Respondent provided no further treatment that evening.

8. On December 7, 1988, Respondent reexamined the horse and noted a complete separation of the superficial digital flexor tendon approximately 8 cm. distal from the tarsus. Radiographs revealed a possible fracture.

9. On December 7, 1988, Respondent cast the leg with stockinette/protouch cast padding, prox-heavy, fetlock (heavy), coronary band, cast with dynacast from hock to hoof including hoof. The cast was reinforced with 1/2 steel due to weight of the animal and was cast in a slight flex.

10. On December 8, 1988, the Rose horse was discharged to the owner, who removed the animal to a boarding stable.

11. On December 9, 1988, Ms. Rose contacted Respondent and advised him the horse was not walking on the cast, had worn a hole through the toe of the cast and was sore when touched above the cast on the inside of the leg.

12. Respondent provided no medical opinion or recommendation to Ms. Rose on December 9.

13. On or about December 10, 1988, Ms. Rose contacted Respondent and advised Respondent that there was swelling present above the top of the cast. Respondent advised Ms. Rose that he would come to the boarding stable on Monday, December 12, and examine the horse.

14. On December 12, 1988, Respondent examined the Rose horse at the stable and noted a slight swelling above the cast. He administered butazoladin 10 cc., Banamine 10 cc. IV, Penicillin 30 cc. SID and advised the owner to increase the oral Butazoladin to 2 grams BID and keep the stall and cast dry and clean. Respondent provided no further treatment at that time.

15. On December 12, 1988, in the evening, Ms. Rose noted increased swelling above the cast, a yellow discharge from the top of the cast, painful reaction to touch on the inside of the leg above the cast and no weight bearing on the casted leg.

16. On December 13, 1988, Ms. Rose again contacted Respondent and advised him of the conditions set forth in paragraph 14 above.

17. On December 13, 1988, Respondent came to the boarding stable at the request of Ms. Rose and examined the horse. He noted slight swelling and administered Butazoladin 10 cc. and Banamine 10 cc. IV. Respondent provided no further treatment at that time.

18. On December 13, 1988, in the evening, Ms. Rose noted additional swelling, yellow discharge from the top of the cast and a reddish fluid emanating from the back of the leg.

19. On December 14, 1988, Respondent was advised by Ms. Rose of the horse's symptoms and again examined the horse at the boarding stable. Respondent removed approximately 3 inches from the top of the cast and administered Butazoladin, Banamine, Rompun/torbugesic and Penicillin 20 cc. BID. Respondent provided no further treatment at that time.

20. On or about December 17, Ms. Rose contacted Respondent's answering service and left a message indicating there was additional swelling on the leg. Respondent did not return the call to Ms. Rose on that date.

21. On or about December 19, 1988, Respondent examined the Rose horse at the owner's request and noted swelling and discharge above the cast. Respondent removed the case and noted early skin slough around the initial wound. Respondent wrapped the leg and advised the owner that there was a small hole on the outside of the leg. Respondent further advised the owner he would return on December 21 to change the bandage.

22. Respondent did not return to the stable on December 21 to change the bandage.

23. On December 22, 1988, Ms. Rose contacted Respondent's answering machine and left a message advising Respondent that her prescription for Penicillin needed to be refilled. Respondent did not return the call to Ms. Rose on that date.

24. On December 23, Ms. Rose contacted Respondent's answering service and left a message for him to contact her. Respondent did not return the call to Ms. Rose on that date.

25. On December 24, 1988, Ms. Rose left two messages with Respondent's answering service. Ms. Rose received no return calls from Respondent on that date.

26. On December 25, 1988, Ms. Rose noted the horse's bandage appeared wet and odorous. Ms. Rose removed the horse's bandage and noted that the inside of the leg was infected

with a large area of purulent discharge present. The outside of the leg appeared to have a large hole, the area around which was infected.

27. On December 25, 1988, Ms. Rose contacted Mary Hanrahan, D.V.M., and requested her veterinary services for her horse.

28. On December 25, 1988, Ms. Rose contacted Respondent's answering service and left a message stating that she was terminating his services.

29. On December 26, 1988, Respondent examined the Rose horse at the boarding stable without the knowledge or consent of Ms. Rose. Respondent rebandaged the leg at that time.

30. On December 27, 1988, Mary Hanrahan, D.V.M., examined the Rose horse, noted the horse to be very lame, carrying its leg and wearing a very tight pressure bandage. Purulent material was draining from the back of the bandage and the odor was necrotic. Dr. Hanrahan removed the bandage and observed large sores and draining abscesses in the posterior and medial surfaces of the leg. Dr. Hanrahan diagnosed severe infection and recommended referral to the University of Wisconsin School of Veterinary Medicine for further treatment.

31. On December 28, 1988, Ms. Rose transported the mare to the University of Wisconsin School of Veterinary Medicine for further examination and treatment.

32. Upon examination at the School of Veterinary Medicine on December 28, both superficial and deep flexor tendons of the rear left leg were noted to be evident and intact.

33. Respondent's conduct in providing care and treatment to the Rose horse as described herein, failed to meet the minimum standards of acceptable veterinary practice, was grossly negligent and evidenced a lack of knowledge or an inability to apply professional principles or skills in that he failed to provide adequate and timely evaluation and treatment of the Rose horse subsequent to placement of the cast.

CONCLUSIONS OF LAW

1. The Wisconsin Veterinary Examining Board has jurisdiction in this matter pursuant to Wis. Stats., Ch. 453.

2. The Wisconsin Veterinary Examining Board has the authority to resolve this matter by stipulation without an evidentiary hearing pursuant to sec. 227.44(5), Stats.

3. Respondent's conduct as herein described constitutes a violation of Wis. Stats., sec. 453.07(1) and Wis. Admin. Code sec. VE 7.06(1) and (2).

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

NOW, THEREFORE, IT IS FURTHER ORDERED that the license of J. Mark Beverly, D.V.M., to practice veterinary medicine in the State of Wisconsin is hereby suspended for a period of ten days to commence on January 12, 1996, and terminate on January 21, 1996. Dr. Beverly is ordered to utilize the period of time between the date of this Order and the date of suspension to arrange for orderly transfer of any patients and appropriate medical coverage for his remaining patients during the period of suspension.

NOW, THEREFORE, IT IS FURTHER ORDERED that the license of J. Mark Beverly, D.V.M., to practice veterinary medicine in the State of Wisconsin is hereby limited on the following terms and conditions:

1. Respondent shall, within six months of the effective date of this Order, participate in and successfully complete an educational program in the areas of timely response to and treatment of post-casting complication in horses. This course shall be established and conducted through the University of Wisconsin, School of Veterinary Medicine, and shall be pre-approved by the Veterinary Examining Board. The course shall include both home study and clinical components.

2. Upon successful completion of the period of suspension and the educational programs set forth in paragraph 1 above, Respondent shall, at the option of the Board, appear before the Board to discuss his compliance with the terms of this order. If such appearance is required, Respondent shall be notified in writing.

3. Upon evidence of successful completion of the terms of this Order, Respondent's license to practice veterinary medicine in the State of Wisconsin shall be fully reinstated.

4. All costs incurred under paragraphs 1-3 above shall be the sole responsibility of Respondent.

5. Denial by the Veterinary Examining Board of reinstatement of Respondent's license to practice veterinary medicine in the State of Wisconsin due to Respondent's failure to meet the conditions set forth herein shall not constitute a denial of a license within the meaning of Wis. Stats. sec. 227.01(3)(a).

Dated this 6 of Dec., 1995.

STATE OF WISCONSIN
VETERINARY EXAMINING BOARD

Gilbert Lewis, D.V.M.
Chairman

PS:kr
ATY-ELG2187

STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
J. MARK BEVERLY, D.V.M., RESPONDENT.	:	91 VET 34

It is hereby stipulated between J. Mark Beverly, D.V.M., personally, and through his attorney, Robert J. Dreps, and Pamela M. Stach, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. J. Mark Beverly, Respondent herein, whose address is 1054 Hwy C, Grafton, Wisconsin 53024, is duly licensed to practice veterinary medicine in the State of Wisconsin under license number 2348, which was granted on June 16, 1982.

2. A Complaint commencing formal disciplinary proceedings was filed against and duly served upon Respondent on March 31, 1995.

3. Respondent has read the Complaint and understands the nature of the allegations against him.

4. Respondent is aware of and understands each of the Respondent's rights including the right to a hearing on the allegations against him at which time the State has the burden of proving these allegations by preponderance of the evidence; the right to confront and cross-examine witnesses against him; the right to call witnesses in his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decisions 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 of the rights afforded the Respondent under the United States Constitution, the Wisconsin Constitution and the Wisconsin Administrative Code.

5. Respondent freely, voluntarily and knowingly waives each and every one of the rights set forth in paragraph four above.

6. The Division of Enforcement recommends that the Wisconsin Veterinary Examining Board adopt this Stipulation and issue the attached Final Decision and Order in resolution of this matter.

7. For the purpose of this Stipulation only, Respondent withdraws his previously filed Answer with regard to the Complaint and, while neither admitting nor denying the allegations, voluntarily agrees to entry of the attached Final Decision and Order by the Veterinary Examining Board.

8. Violation of the terms and conditions specified in this Stipulation and Final Decision and Order shall constitute a basis for disciplinary action by the Veterinary Examining Board.

9. The parties to this Stipulation understand that the Veterinary Examining Board and the Department of Regulation and Licensing, Division of Enforcement, will take no further action against Respondent's license based on the allegations contained in the Complaint unless Respondent violates the terms and conditions of this Stipulation and Final Decision and Order in which event, the Board may, at its option and in addition to other remedies, reinstate the Complaint and reinstate proceedings against Respondent.

10. This agreement in no way prohibits the Veterinary Examining Board from any further action against Respondent based on acts not alleged in the present Complaint which might be violative of the Wisconsin Veterinary Examining Board statutes and rules.

11. The parties agree to waive the Proposed Decision of the Administrative Law Judge and submit this Stipulation directly to the Veterinary Examining Board. All parties agree that counsel for the parties and the board advisor assigned to this case may appear before the Board in open session to argue on behalf of acceptance of this Stipulation.

12. This Stipulation and Final Decision and Order, if adopted and entered by the Veterinary Examining Board, shall become effective upon the signing of this Order.

13. All costs of these proceedings incurred by either party are hereby waived.

14. In the event any term or condition of this Stipulation and Final Decision and Order is not accepted or entered by the Veterinary Examining Board, then no term of this Stipulation and Final Decision and Order shall be binding in any manner on any party to this Stipulation.

Dated: December 4, 1995

Robert J. Dreps
Attorney for Respondent

Dated: December 5, 1995

Pamela M. Stach, Attorney
Department of Regulation and Licensing

I, J. Mark Beverly, D.V.M., having read the above Stipulation and having discussed its contents with my attorney and understanding its terms, do hereby freely, voluntarily and knowingly enter into this Stipulation.

Dated: Dec 1 1995

J. Mark Beverly, D.V.M.
Respondent

PS:kr
ATY-ELG2189

LaFollette
Sinykin

LAW OFFICES

ONE EAST MAIN STREET
POST OFFICE BOX 2719
MADISON, WI 53701-2719
FACSIMILE 608-257-0609
TELEPHONE 608-257-3911

August 25, 1997

Michelle Neverman
Veterinary Examining Board Monitor
1400 E. Washington Ave.
P. O. Box 8935
Madison, WI 53706-8935

J. Mark Beverly, D.V.M.
Case Nos. 96-VET-025, LS-950331VET

Dear Ms. Neverman:

I am writing to notify you and the Veterinary Examining Board that my client, J. Mark Beverly, has decided to voluntarily relinquish, for medical reasons, his license to practice veterinary medicine in the State of Wisconsin. He has done the same in the State of Illinois, where he also is currently licensed.

Dr. Beverly has not practiced veterinary medicine in any state since December, 1996. He would like to preserve his ability to petition for reinstatement of his Wisconsin license, under appropriate conditions, should he decide to resume veterinary practice in the future. Dr. Beverly is prepared to address at that time the medical reasons for voluntarily relinquishing his license, as well as the unresolved issues in the pending proceedings.

Please let me know if the Board requires anything further of Dr. Beverly to accomplish this result.

Sincerely,

LA FOLLETTE & SINYKIN

Robert J. Dreps

RJD/jad
cc: J. Mark Beverly

l&s:15974
8/21/97

Exhibit B

STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
J. MARK BEVERLY, D.V.M. RESPONDENT.	:	97 VET 38

It is hereby stipulated between J. Mark Beverly, D.V.M, Respondent herein, personally and through his attorney, Robert J. Dreps, and Pamela M. Stach, Attorney for the Department of Regulation and Licensing as follows:

1. J. Mark Beverly D.V.M., of 1054 Hwy C, Grafton, Wisconsin 53204, whose date of birth is December 12, 1954, is currently licensed to practice veterinary medicine in the State of Wisconsin under license number 2348 which was granted on June 16, 1982.

2. A formal investigation entitled 97 Vet 38 is pending before the Wisconsin Veterinary Examining Board.

3. In the interests of resolving the pending investigation, J. Mark Beverly, D.V.M. voluntarily enters into this stipulation and agrees to entry of the attached Final Decision and Order by the Veterinary Examining Board.

4. J. Mark Beverly, D.V.M. understands that by signing this stipulation, he freely, voluntarily and knowingly waives his rights, including the right to a hearing on the allegations against him 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 witnesses against him, the right to call witnesses on his behalf and compel their attendance by subpoena, the right to testify, the right to file objections to any proposed decision and to present briefs and oral argument 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 and the Wisconsin Administrative Code.

5. Respondent is further aware of his right to seek legal representation prior to signing this stipulation and has done so.

6. The parties to this stipulation and the Board Advisor may appear before the Wisconsin Veterinary Examining Board in support of this Stipulation.

7. The Final Decision and Order , if entered by the Veterinary Examining Board shall become effective on the date of signing.

8. The parties waive any costs accrued in this matter by either party.

9. If any term of this Stipulation or the attached Final Decision and Order is not accepted by the Wisconsin Veterinary Examining Board, then no term of the Stipulation of Order will be binding in any manner on any party and the matter will be returned to the Division of Enforcement for further proceedings.

Dated: December 16, 1997

Pamela M. Stach, Attorney
Department of Regulation and Licensing

Dated: 12/9/97

Robert J. Dreps
Attorney for Respondent

I, J. Mark Beverly, D.V.M., having read the above Stipulation and attached Final Decision and Order, and having discussed its terms with my attorney, do hereby freely, voluntarily and knowingly enter into this Stipulation.

Dated: 11/24/97

J. Mark Beverly, D.V.M.
Respondent