

STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

LUCAS G. BRZEZINSKI, D.V.M.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0003690

Division of Legal Services and Compliance Case No. 14 VET 028

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

Lucas G. Brzezinski, D.V.M.
35861 Cty. Hwy. MM
Stanley, WI 54768

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 Lucas G. Brzezinski, D.V.M., (DOB December 23, 1980), is licensed in the state of Wisconsin as a veterinarian, having license number 6002-50, first granted on May 25, 2007 and current through December 14, 2015. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 35861 County Highway MM, Stanley, Wisconsin 54768.

2. At all times relevant to this proceeding, Respondent owned and operated a veterinary clinic located in Stanley, Wisconsin.

3. On October 15, 2014, Department investigators conducted an unannounced inspection of Respondent's veterinary clinic.

4. The inspection revealed the following:

- a. Respondent's veterinary clinic consists of one room, which serves multiple purposes, including patient examination, treatment, and patient recovery area.
- b. When the investigators entered the clinic, Respondent was operating on a dog; due to the one-room nature of the clinic, the operation was in full view of the investigators upon entry.
- c. Respondent was covered with mud and was not wearing gloves.
- d. The clinic was unsanitary with numerous flies present and dried blood on the walls, floor, and surgery table.
- e. Controlled substances were not properly secured nor was there a controlled substances log to track their receipt, use, and disposal.
- f. Approximately 45 bottles of expired medication were present, with expiration dates ranging from 1993 to 2012.
- g. Several containers of expired medications were comingled with containers of unexpired medications.

5. A review of Respondent's medical records revealed that the majority of his files consisted of nothing but a signed vaccination certificate.

6. The entire medical record file for client Cindy Haas consisted of a note card reading:

Haas Cindy
5/3/13 Treated for Lymes
Given Excede Banamine, Dexameth
And Sent Home on Doxycycline

5/8/13 X-Rays Reveal Broken Radius [and] Ulna
Cast

7. Respondent also had a large stack of vaccination certificates which he had not filed in any patient file.

8. Respondent certified to the board that he had completed 30 hours of continuing education required for the 2011-2013 biennium.

9. The investigators requested that copies of Respondent's continuing education certifications for the 2011-2013 biennium be provided to the Department within one week; no such certifications have been provided.

10. In resolution of this matter, Respondent 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 the conduct described in the Findings of Fact, Respondent Lucas G. Brzezinski, D.V.M., engaged in unprofessional conduct as defined in Wis. Admin. Code § VE 7.06(1) by conduct in the practice of veterinary medicine which evidences a lack of knowledge or ability to apply professional principles or skills.

3. By the conduct described in the Findings of Fact, Respondent Lucas G. Brzezinski, D.V.M., engaged in unprofessional conduct as defined in Wis. Admin. Code § VE 7.06(4) by failing to properly secure or account for controlled substances located within his veterinary clinic in accordance with 21 C.F.R. §§ 1301.72-1301.76 (2014) and Wis. Admin. Code § Phar 8.02.

4. By the conduct described in the Findings of Fact, Respondent Lucas G. Brzezinski, D.V.M., engaged in unprofessional conduct as defined in Wis. Admin. Code § VE 7.06(15) by failing to maintain records as required by § VE 7.03.

5. By the conduct described in the Findings of Fact, Respondent Lucas G. Brzezinski, D.V.M., engaged in unprofessional conduct as defined in Wis. Admin. Code § VE 7.06(17) by failing to keep the veterinary facility and all equipment in a clean and sanitary condition while practicing as a veterinarian.

6. By the conduct described in the Findings of Fact, Respondent Lucas G. Brzezinski, D.V.M., engaged in unprofessional conduct as defined in Wis. Admin. Code § VE 7.06(22) by falsely certifying to the board under § VE 10.02 (6) that the veterinarian has completed the 30 hours of continuing education required under § VE 10.02 (1).

7. As a result of the above violations, Respondent Lucas G. Brzezinski, D.V.M., is subject to discipline pursuant to Wis. Stat. §§ 453.07(1)(b) and (f).

ORDER

1. The attached Stipulation is accepted.

2. The professional veterinary license issued to Respondent Lucas G. Brzezinski, D.V.M., (license number 6002-50), is **SUSPENDED** as follows:

SUSPENSION

- A.1. Respondent's license to practice as a veterinarian in the state of Wisconsin is **SUSPENDED** for an indefinite period.
- A.2. Respondent shall mail or physically deliver all indicia of Wisconsin Veterinary licensure to the Department Monitor within fourteen (14) days of the effective date of this order. Limited credentials can be printed from the Department of Safety and Professional Services website at <http://dsps.wi.gov/index.htm>.
- 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, the Board may grant a petition by the Respondent under paragraph D.6. for return of full Wisconsin licensure. The Board may, on its own motion or at the request of the Department Monitor, grant full Wisconsin licensure at any time.

STAY OF SUSPENSION

- B.1. The suspension shall not be stayed for the first twelve (12) months, but any time after twelve months the suspension may be stayed upon Respondent 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.
- 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. A substantial violation includes, but is not limited to, any violation concerning hygiene and sanitation, controlled substances and those articulated in Wis. Admin. Code § VE 7.06. A repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Board or its designee 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 Safety and Professional Services 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. SPS 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within sixty

(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

Quarterly Inspections

- C.1. The veterinary license issued to Lucas G. Brzezinski, D.V.M., (license number 6002-50) is LIMITED to require third-party inspections of Respondent's veterinary practices as follows:
- a. No later than three hundred (300) days from the date of this Order, and every three (3) months thereafter, for a period of 36 months, Respondent shall have a third-party inspection of all areas of any site at which Respondent offers to practice veterinary medicine, including non-clinical areas, sterilization areas and laboratories. The purpose of the inspections is to assess Respondent's compliance with the standard of minimal competence in veterinary medicine.
 - b. Respondent is responsible for obtaining preapproval of the third-party inspector from the Board or its designee. Respondent shall submit to the Department Monitor at the address below a written request for approval of a proposed inspector. The request for approval shall be accompanied by the inspector's current curriculum vitae and a letter from the inspector confirming that he or she has read the Final Decision and Order and agrees to undertake the duties of an inspector as set out herein.
 - c. An acceptable inspector will, at a minimum, be a licensed veterinarian or other health care professional with demonstrated knowledge of requirements of the minimal competence for sanitation in a veterinary practice. The inspector shall not have any personal or professional relationship, past or present, with Respondent that could reasonably be expected to compromise the proposed inspector's ability to render fair and unbiased reports to the Department.
 - d. Respondent shall insure that, within fourteen (14) days of each inspection, the third-party inspector submits written reports of the inspector's findings to the Department Monitor.
 - e. Respondent shall comply with any and all recommendations of the third-party inspector within a time-frame determined by the Board or its designee and to the satisfaction of the Board or its designee.
 - f. Respondent is responsible for all costs associated with the third-party inspections.
 - g. Except as provided in subparagraph C.5., this limitation shall be removed when the Board or its designee, in an exercise of discretion, determines that Respondent has undergone eight consecutive satisfactory inspections.

Remedial Education

C.2. Respondent's license to practice veterinary medicine in the state of Wisconsin is further LIMITED as follows:

- a. Within six (6) months of the date of this Order, Respondent shall successfully complete remedial education as follows: six (6) hours of education on the legal aspects of controlled substances in veterinary practice, twelve (12) hours of education on the subject of record keeping, six (6) hours of education on the subject of hygiene and sanitation in surgeries, and six (6) hours on the subject of ethics.
- b. In addition, Respondent shall successfully complete thirty (30) hours of education on veterinary-related topics, to be retroactively applied to the 2011-2013 biennium. The course(s) must be pre-approved by the Board's designee, and at least half of the credits must be in the form of in-person classes. 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.
- b. Within thirty (30) days of completion of the preapproved remedial education, Respondent shall submit proof of successful completion in the form of verification from the institution or organization that provided the education.
- c. None of the remedial education completed pursuant to this requirement may be used to satisfy any other continuing education requirements that have been or may be instituted by the Board or Department.
- d. 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.

Professional Mentor

C.3. Respondent's license to practice veterinary in the state of Wisconsin is further LIMITED as follows:

- a. Within three hundred (300) days from the date of this Order, Respondent shall engage the services of a professional mentor who is licensed to practice veterinary medicine in the state of Wisconsin, and who has not been disciplined by the Board. Respondent shall submit to the Department Monitor at the address below a written request for approval of a proposed mentor. The request for approval shall be accompanied by the mentor's current curriculum vitae and a letter from the mentor confirming that he or she has read the Final Decision and Order and agrees to undertake the duties of a professional mentor as set out herein.
- b. The professional mentor shall be actively engaged in the practice of veterinary medicine and shall not have any personal or professional relationship, past or

present, with Respondent that could reasonably be expected to compromise the proposed mentor's ability to render fair and unbiased reports to the Department. With the approval of the Board or its designee, the professional mentor may also perform the quarterly third-party inspections required in paragraph C.1.

- c. The Board's designee has the full and final authority to approve or reject a proposed mentor. This decision is based on an exercise of discretion and is not reviewable. The Board's designee may, for good cause, approve or direct a change in the professional mentor at any time.
- d. Every month, for a period of twenty-four (24) months in which the Respondent is practicing at least half-time as a veterinarian, the mentor shall visit and inspect Respondent's veterinary practice, for the purposes of determining whether or not Respondent is maintaining the practice site consistent with the standards of the veterinary profession, including record keeping and storage of controlled substances, if any.
- e. During the monthly visit, the mentor shall randomly select and review the charts of at least five (5) patients that have presented to Respondent in the preceding month. The chart review shall thoroughly assess whether Respondent's records are compliant with the rules and regulations of the profession and completed in a timely manner. Records shall be assessed at the standard of minimum competence.
- f. The professional mentor shall offer feedback and direction to Respondent for the purposes of assisting Respondent in continued compliance with the standards of the profession. Respondent shall follow the appropriate guidance of the mentoring veterinarian. Whether or not guidance of the mentoring veterinarian is appropriate and whether or not Respondent has complied with the guidance shall be in the sole discretion of the Board's designee. These discretionary determinations are not reviewable.
- g. The mentor shall submit written and thorough quarterly reports identifying the number of charts reviewed in the previous quarter and identifying any concern with Respondent's practice. It is Respondent's responsibility to ensure the quarterly reports are submitted when due.
- h. The mentor shall immediately report any unprofessional conduct or suspected violation of this Order to the Department Monitor.
- i. After the timely submission of eight (8) consecutive quarterly mentor reports, and with a written recommendation from the mentor expressly supporting the request, Respondent may petition the Board or its designee for modification or termination of any part of this limitation. Whether to modify the terms of this Limitation is in the sole discretion of the Board or its designee and is not reviewable.

- j. Respondent is responsible for any and all costs associated with the services of the professional mentor.

Storage for controlled substances

- C.4. Respondent shall, within six (6) months from the date of this order, submit proof acceptable to the Board's designee that he has attained suitable secure storage for controlled substances in compliance with DEA regulations.

Permanent Limitations

- C.5. Respondent shall permit any representative of the Board or the Division of Legal Services and Compliance to perform an inspection of all portions of any site at which Respondent practices veterinary medicine, at any time and without prior notice. This limitation is permanent.

MISCELLANEOUS

Department Monitor

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

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

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 third-party inspector or professional mentor 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.
- D.3. 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 Third-Party Inspector or Professional Mentor by the Board

- D.4. If the Board or its designee determines that the third-party inspector or professional mentor has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Board or its designee may direct that Respondent obtain inspections or mentorship under the direction of another inspector or professional mentor.

Petitions for Modification of Limitations or Termination of Order

- D.5. Respondent may petition the Board on an annual basis for modification of the terms of this Order, however no such petition for modification shall occur earlier than one (1) year from the date of the initial stay of the suspension. Any petition for modification shall be accompanied by a written recommendation from Respondent's professional mentor 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.
- D.6. Respondent may petition the Board for termination of this Order any time after five (5) years from the date of the initial stay of the suspension. However, no petition for termination shall be considered without a showing of continuous, successful compliance with the terms of the Order, for at least five (5) years.

Costs of Compliance

- D.7. Respondent shall be responsible for all costs and expenses incurred in conjunction with any expenses associated with compliance with the terms of this Order.

Costs of Proceeding

- D.8. Within one (1) year from the date of this order, Respondent shall pay costs of \$1,500.00 to the Department of Safety and Professional Services. Payment of all costs shall be directed to the attention of the Department Monitor at the address in paragraph D.1., above. In the event Respondent fails to timely submit payment of costs, the Respondent's license (number 6002-50) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

Additional Discipline

- D.9. 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(1)(h).

3. Violation of any of the terms of this Order, including failure to complete all of the required education, failure to obtain a preapproved inspector, failure to obtain a preapproved mentor, or failure to pay costs 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 complete all of the required education, fails to obtain a preapproved inspector, fails to obtain a preapproved mentor, fails to follow the recommendations of the inspector or professional mentor, or fails to pay costs as set forth above, Respondent's license (no. 6002-50) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the relevant portion of this Order.

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

WISCONSIN VETERINARY EXAMINING BOARD:

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

1/28/15
Date

STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

LUCAS G. BRZEZINSKI, D.V.M.,
RESPONDENT.

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STIPULATION

0003690

Division of Legal Services and Compliance Case No. 14 VET 028

Respondent Lucas G. Brzezinski 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.

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.

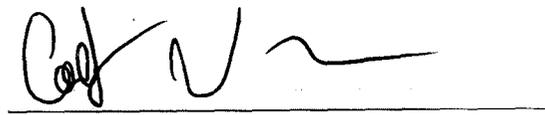
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Lucas G. Brzezinski, Respondent
35861 Cty. Hwy. MM
Stanley, WI 54768
License no. 6002-50

12/15/14

Date



Cody Wagner, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

12/16/14

Date