

STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
MARY E. PRATT, D.V.M., : DHA CASE NO. DAT-15-0003
RESPONDENT. :
 :

Department of Agriculture, Trade and Consumer Protection Case No. 14 VET 034

The parties in this matter agree to the terms and conditions of the Stipulation, incorporated herein, as the final disposition of this matter.

Accordingly, the Wisconsin Veterinary Examining Board (the Board) adopts the Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

PARTIES

1. The Board is created and attached to the Wisconsin Department of Agriculture, Trade and Consumer Protection (the Department) pursuant to Wis. Stat. § 15.135(5).

2. Dr. Mary E. Pratt, D.V.M. (Respondent), is licensed in the State of Wisconsin to practice veterinary medicine, having license number 1979-50, first issued on July 22, 1979, and current through December 14, 2017.

3. The most recent address on file with the Department for Respondent is 19775 West Imperial Court, New Berlin, Wisconsin 53146-5600.

PROCEDURAL HISTORY

4. The Board commenced this proceeding by filing a Complaint on December 8, 2015.

5. Respondent, represented by Joseph M. Wirth, filed an Answer on December 22, 2015.

6. Administrative Law Judge Jennifer Nashold presided over a prehearing conference on January 15, 2016.

7. The Board filed a First Amended Complaint on March 18, 2016.

8. Respondent, represented by Joseph M. Wirth, filed an Answer to Amended Complaint on March 25, 2016.

FINDINGS OF FACT

9. Respondent has no previous disciplinary history.

10. On February 8, 2012, the Department received from Debra Gray (Gray), an application for a Department Dog Seller – Animal Shelter license for Orphaned Kanines, Inc., located at 1922 Kremer Ave., Racine, Wisconsin (Orphaned Kanines).

11. On May 2, 2012, Department Inspector Shawna Wagner conducted a pre-licensing inspection. At the inspection, Gray stated that Respondent was the veterinarian for the facility.

12. On October 30, 2011, Gray ordered 100 Wisconsin Intrastate Dog Seller certificate of veterinarian inspection forms (CVIs) numbered D15251 to D15350. During the interview with Inspector Wagner, Gray stated that she ordered CVIs with the use of Respondent's license number and that Gray kept the CVIs at the facility.

13. Respondent issued CVIs for animals examined at Orphaned Kanines and 4747 County Road H, Caledonia, Wisconsin 53126-9403.

14. Respondent also administered Rabies vaccinations at Orphaned Kanines June 21, 2012, through March 23, 2014.

15. Respondent provided to the Board a sample treatment record titled "Exam Report Card" that failed to include the required information: client name and identification of the veterinarian providing care.

16. Respondent provided to the Board a sample treatment record titled "Drug Calculations Worksheet" that failed to include the required information: treatment – medical, surgical; provisional diagnosis; final diagnosis; complaint; and present illness.

17. On May 29, 2014, Caledonia Police Department Humane Officer Peter D. Danowski (Officer Danowski), interviewed Gray at Orphaned Kanines.

18. During the May 29, 2014, interview, Gray represented that she was the owner of Orphaned Kanines and that Respondent is the veterinarian for Orphaned Kanines.

19. During the May 29, 2014, interview, Officer Danowski requested entry to the Orphaned Kanines facility and Gray refused entry. At that time, Officer Danowski contacted Caledonia Police Department Lieutenant Brian Wall (Lieutenant Wall) regarding an application for a search warrant.

20. That same day, May 29, 2014, Lieutenant Wall executed a search warrant at Orphaned Kanines.

21. That same day, May 29, 2014, Gray was arrested and Orphaned Kanines was shut-down and all animals seized for deplorable conditions.

22. In 2014, on six occasions, Respondent ordered controlled substances to be delivered c/o Orphaned Kanines at 1922 Kremer Avenue, Racine, Wisconsin, including two dates after the kennel was shut-down. Those dates are: January 2, 2014, March 17, 2014, March 20, 2014, April 21, 2014, July 28, 2014, and August 28, 2014. According to delivery tracking, these deliveries were received by Gray.

23. On October 7, 2014, Respondent ordered Proin chewable tablets, a veterinary prescription drug, to be delivered c/o Orphaned Kanines at 1922 Kremer Avenue, Racine, Wisconsin. This delivery was received by Gray.

24. On October 20, 2015, Gray pleaded no contest to three counts of Wis. Stat. § 951.14(4) which requires: "Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards." The terms of Gray's two-year probation prohibit Gray from operating an animal shelter, store, or any other business with animals.

25. On November 10, 2014, officers from the Caledonia Police Department executed a search warrant at 4747 CTH H, Village of Caledonia, Wisconsin, a residence where it was alleged that spay and neuter operations were taking place.

26. Officers announced themselves and were granted entry. Officers entered the lower level of the residence where Respondent was observed performing a spay operation on a cat in a make-shift operating room.

27. In the lower level operating room, officers observed:

a. Gray serving as Respondent's veterinary assistant, monitoring the operation and recording vital signs on a log sheet.

b. Gray was approximately three feet from the operation without surgical clothing, including gloves or face mask.

c. Respondent's license was not posted in the operating room or anywhere in the residence and was not available for inspection when requested by Lieutenant Wall.

d. A cat was present in the room where Respondent was performing the operation. The cat was described as old and stayed in the room at all times.

e. Ceiling tiles above the operating table were missing, exposing cob webs, dust, and wires.

f. Numerous wires were held up by bent wire coat hangers attached to the ceiling.

g. Surgical lights directly above the operating table were held up by bent metal coat hangers.

h. The following controlled substances were found in unlocked drawers, cabinets, and on shelves in the basement:

- i. propofol;
- ii. buprenorphine hydrochloride injection;
- iii. banamine;
- iv. acepromazine maleate injection;
- v. atroject SA;
- vi. lidoject;
- vii. loxicom;
- viii. ketathesia;
- ix. midazolam;
- x. metacam;
- xi. isoflurane;
- xii. somnasol; and
- xii. anased.

i. Two oxygen tanks were in the operating room and were not secured to the wall.

28. On March 2, 2016, Respondent entered into a Memorandum of Agreement with the DEA based on the following violations discovered during the DEA investigation:

a. Failure to keep controlled substances in a securely locked, substantially constructed cabinet;

b. Failure to have a separate registration for each principal place of business or professional practice where controlled substances are dispensed;

c. Failure to maintain complete and accurate records documenting usage of Schedule III and IV controlled substances during veterinary procedures; and

d. Failure to conduct a biennial inventory of all controlled substances on hand.

29. As part of its investigation, the Board requested evidence of Respondent's compliance with continuing education requirements for the 2011 – 2013 biennium. Respondent submitted course completion certificates for 2 hours of continuing education programs.

CONCLUSIONS OF LAW

30. The Board has jurisdiction in this matter pursuant to Wis. Stat. § 89.07(2).

31. The Board has authority to assess costs of the proceeding pursuant to Wis. Stat. § 89.0715(2).

32. The Board is authorized to enter into the Stipulation pursuant to Wis. Stat. § 227.44(5).

33. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § VE 7.06(1), by engaging in conduct in the practice of veterinary medicine which evidences a lack of knowledge or ability to apply professional principles or skills.

34. By the conduct described in the Findings of Fact, Respondent, engaged in unprofessional conduct as defined by Wis. Admin. Code § VE 7.06(4), by failing to obtain a separate registration for each principal place of business or professional practice where controlled substances are manufactured, distributed or dispensed in accordance with 21 U.S.C. § 822(e) and 21 C.F.R. § 1301.12(a).

35. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § VE 7.06(4), by

failing to properly secure controlled substances located within the facility in which Respondent was engaging in the practice of veterinary medicine in accordance with 21 C.F.R. §§ 1301.72-1301.76.

36. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by 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 veterinary medicine.

37. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § VE 7.03(2) by failing to meet minimum standards for veterinarian recordkeeping.

38. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § VE 7.05 by failing to display or make her license available for inspection.

39. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § VE 10.02 by failing to complete at least 30 hours of continuing education in each biennial renewal period.

40. The Board has authority to reprimand the Respondent or deny, suspend, limit, or revoke the Respondent's veterinary license pursuant to Wis. Admin. Code § VE 7.07.

ORDER

41. The Stipulation is accepted.

42. Respondent shall pay costs of the proceeding in the amount of \$1,265.99.

43. Respondent is reprimanded.

44. Respondent's license to practice veterinary medicine is limited as follows:

a. Respondent shall practice only under the direct supervision of a licensed veterinarian approved by the Board or its designee. "Direct supervision" shall mean the practice of veterinary medicine in a clinic, hospital or business owned, managed or operated by a licensed veterinarian who is approved by the Board or its designee; and under circumstances where the

supervising veterinarian sets the general operational policies, requirements for dispensation of controlled substances, and the reporting and recordkeeping requirements, and has at least daily access to the facilities, patients and the records used, created and maintained by Respondent. "Direct supervision" does not anticipate the supervising veterinarian's immediate physical presence at all times during which the Respondent is practicing veterinary medicine. The supervising veterinarian shall submit written quarterly reports summarizing Respondent's compliance with Board rules, quality of documentation and prescribing practices, if any. It is Respondent's responsibility to ensure the quarterly reports are submitted when due. Respondent may, after twelve consecutive months with quarterly favorable reports, Petition the Board for removal or modification of this requirement.

b. Respondent shall practice only in a work setting pre-approved by the Board or its designee, as described in subparagraph (a). The Board recognizes that Respondent has certain longstanding clients who have come to depend upon Respondent for the provision of veterinary care in a non-clinic, "house call" setting. In order to assure that the care afforded those clients continues in the manner they have requested, and with the understanding that care may not be sought for such animals if the client is otherwise required to bring the animal to a clinic or business as described in subparagraph (a), the Board will permit Respondent to examine, evaluate, draw blood and perform other clinically minimal procedures on the animals belonging to the following list of clients in a non-clinic, "house call" setting. However, any prescription of controlled substance, and any invasive procedure or testing modality including but not limited to surgery, radiographs, anesthesia, euthanasia, etc., must be performed in a work setting as described in subparagraph (a), with recordkeeping as described therein. The list of clients for whom the above-described clinically minimal work may be performed in a non-clinic, "house call" setting is:

1. *Integrity Farms* - Kathleen Caya/Robert Cheska
2. *Foremost Farms* - Jessie Kupser/Jodie Hansen
3. *JNA Terriers* - Nancy Anderson
4. *Rumsford Cattery* - Caron Gray

5. *Fahey Cattery* - Mary Catherine Fahey
6. *Cronus Cattery* - Bonnie Nelson
7. Arlene Evans
8. Janice/Mark Tischberg
9. Rebecca Berger
10. Sharon Elias
11. Sandy/Dale Houge
12. Barb Young
13. John Talsky
14. Joanne Bartel
15. Jessica Thomason
16. Igor Shleyne (already Hartland client)
17. Dave Eckstrom (already Hartland client)

Respondent shall provide a copy of this Order to the seventeen (17) clients above-named. Respondent shall provide contact information for the seventeen (17) clients above-named to the Board.

c. Within six months of the date of this Order, Respondent shall, at her own expense, take and successfully complete remedial education as follows: four (4) hours of education on the legal aspects of controlled substances in veterinary practice, two (2) hours of education on the subject of record keeping, three (3) hours of education on the subject of hygiene and sanitation in surgeries, and three (3) hours on the subject of ethics.

d. Each course attended in satisfaction of this Order must be pre-approved by the Board or its designee. Respondent shall be responsible for locating course(s) satisfactory to the Board and for obtaining the required approval of the courses from

the Board or its designee. Respondent must take and pass any exam offered for the course(s).

e. Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Board at the address stated below.

f. None of the 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.

45. Payment of costs, proof of successful course completion, and required written reports shall be sent to:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Office of Legal Counsel
2811 Agriculture Drive
P.O. Box 8911
Madison, WI 53708-8911

46. 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 without further notice or hearing, until Respondent has complied with the relevant portion of this Order. 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.

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

FOR WISCONSIN VETERINARY EXAMINING BOARD:

by:

P.C. Johnson DVM

Date

4/27/16

Print name: P.C. JOHNSON, D.V.M.
A Member of the Board

STATE OF WISCONSIN
BEFORE THE VETERINARY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : STIPULATION
MARY E. PRATT, D.V.M., :
RESPONDENT. : DHA CASE NO. DAT-15-003

Department of Agriculture, Trade and Consumer Protection Case No. 14 VET 034

Dr. Mary E. Pratt, D.V.M. (Respondent) and the Wisconsin Veterinary Examining Board (the Board) stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Board. 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 Board 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 represented by Attorney Joseph M. Wirth.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties to the Stipulation consent to the entry of the Final Decision and Order, incorporated herein, 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 proposed form.

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 Board 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 employee of the Wisconsin Department of Agriculture, Trade and Consumer Protection and any member of the Board assigned as the case advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, 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, the case advisor may, as a member of the Board, vote on whether the Board should accept this Stipulation and issue the 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 available to the public.

Mary E. Pratt D.V.M.
 Dr. Mary E. Pratt, D.V.M.
 19775 West Imperial Court
 New Berlin, WI 53146-5600
 License no. 1979-50

4-22-16
 Date

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

4-22-16
 Date

FOR WISCONSIN VETERINARY EXAMINING BOARD:

by: P.C. Johnson DVM
 Print name: P.C. JOHNSON, D.V.M.
 A Member of the Board

4/27/16
 Date