

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
Albert C. Batchelder, D.V.M.
License No. 0953

**STIPULATION AND ORDER FOR
VOLUNTARY SURRENDER**

STIPULATION

Albert C. Batchelder, D.V.M. ("Licensee"), and the Minnesota Board of Veterinary Medicine Complaint Review Committee ("Committee") agree that the above-referenced matter may be resolved by mail without trial of any issue or fact as follows:

I.

JURISDICTION

A. The Minnesota Board of Veterinary Medicine ("Board") is authorized pursuant to Minnesota Statutes chapter 156 to license and regulate veterinarians and to take disciplinary action as appropriate.

B. Licensee holds a license from the Board to practice veterinary medicine in the State of Minnesota and is subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation and Order.

II.

COMPLAINT REVIEW COMMITTEE

The Complaint Review Committee that negotiated this Stipulation with Licensee is composed of John Lawrence, D.V.M., and Barbara Fischley, D.V.M. Karen B. Andrews, Assistant Attorney General, represents the Committee in this matter. Licensee was advised of his right to be represented by legal counsel and knowingly and voluntarily waived that right.

III.

FACTS

The parties agree this Stipulation and Order is based upon the following facts:

A. Licensee was licensed to practice veterinary medicine in the State of Minnesota on July 8, 1953.

B. Between 1992 and 2010, Licensee practiced veterinary medicine at a business in Faribault, Minnesota, which offered grooming services, heartworm testing, rabies vaccinations, distemper vaccinations, refilling of medications, including doxycycline and thyroid medication, and the sale of pets and pet supplies.

C. In December 2010, Licensee sustained a serious injury and did not return to the business to practice veterinary medicine after that time.

D. The Board received a complaint alleging that Licensee was enabling his veterinary technician to engage in the unlicensed practice of veterinary medicine. Specifically, it was alleged that the technician was diagnosing and treating animals, including administering vaccinations and dispensing medication. According to the complaint, many animals received incorrect treatment at this business and one animal died. It was also alleged that Licensee was physically unable to practice veterinary medicine.

E. On April 12, 2011, investigators conducted an unannounced inspection of the business and noted the following:

1. Licensee's technician and an unidentified female staff person were present, but Licensee was not.

2. Licensee's technician was observed administering at least two vaccines to a dog, which appeared to be distemper and rabies vaccinations.

3. Numerous vaccines and other drugs were discovered, including an equine West Nile virus vaccine. Some of the drugs had expired as long ago as 2004.

4. A random selection of records revealed that animals were treated for kennel cough, distemper and/or rabies in 2011 by Licensee's technician while Licensee was on a medical leave of absence.

5. Between January 2009 and April 2011, drug orders were placed for a variety of medications, including Phenylbutolone Bolus, Cephalexin, Depo Medrol, Doxycycline, Iverhart, and Frontline. Licensee has not had a valid U.S. Drug Enforcement Administration ("DEA") certificate since February 2007.

6. Licensee's technician admitted that she and other staff stamped rabies vaccination certificates with Licensee's name and signed his name during his leave of absence. Additionally, the technician and staff continued to vaccinate and euthanize animals despite Licensee's absence.

F. Licensee has indicated that he is physically unable to return to the practice of veterinary medicine.

IV.

LAWS

The Committee concludes that the conduct described above constitutes a violation of Minnesota Statutes section 156.081, subdivision 2(3), (4), (6), and (12), for purposes of this Stipulation and Order only, and justifies the action described below. Licensee agrees that the conduct described above constitutes a violation of Minnesota Statutes section 156.081, if proven by the Committee, and agrees to enter into this Stipulation and Order for purposes of settlement.

V.

REMEDY

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

A. The Board accepts Licensee's **VOLUNTARY SURRENDER** of his license to practice veterinary medicine. Licensee shall not hereafter engage in any act which constitutes the practice of veterinary medicine as defined in Minnesota Statutes chapter 156 and shall not imply by words or conduct that Licensee is authorized to practice veterinary medicine.

B. Licensee shall surrender his license to the Board. Licensee shall personally deliver or mail his license to the Minnesota Board of Veterinary Medicine, c/o John King, Executive Director, 2829 University Avenue S.E., Suite 540, Minneapolis, MN 55414.

C. Upon Licensee's surrender of his license certificate, the Board agrees to close its file in this matter.

D. Should Licensee reapply for licensure to practice veterinary medicine in the State of Minnesota, the complaint against Licensee shall be reopened and Licensee shall appear before a Board Complaint Review Committee to discuss the issues raised by this complaint, as well as any complaints received subsequent to the surrender of Licensee's license. Further, should Licensee reapply for licensure, he must meet the requirements for licensure in effect at the time of that application. At the time of application, Licensee shall demonstrate by clear and convincing evidence that he is capable of working as a veterinarian in a fit, competent, and ethical manner and with reasonable skill and safety. Licensee shall not be re-licensed in Minnesota until further order of the Board, which may include conditions and/or restrictions on Licensee's license.

VI.

CONSEQUENCES OF A VIOLATION

A. If Licensee practices veterinary medicine in the State of Minnesota or implies by words, advertising, or any other conduct that he is authorized to practice veterinary medicine in the State of Minnesota, the Board may in its discretion pursue an additional remedy, including bringing an action in district court for injunctive relief pursuant to Minnesota Statutes section 214.11.

B. *Hearing Before the Board.* If the Committee determines that Licensee has violated any term or condition of this Stipulation and Order, the Committee may schedule a hearing before the Board and serve on Licensee a Notice of Hearing for Alleged Non-Compliance With Stipulation and Order ("Notice"), which sets forth the allegations against Licensee and provides Licensee notice of the date, time, and place of the hearing before the Board. The procedures set forth in paragraph 2 below shall apply to the hearing.

C. *Hearing Procedures.* The following procedures shall apply:

1. *Response to Allegations in Notice.* At least seven days before the hearing, Licensee shall submit a written response to the allegations set forth in the Notice. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

2. *Hearing Before Board.* The Board shall hold a hearing before its own members in accordance with the procedures set forth below to determine whether the allegations are true and, if so, whether to take additional disciplinary action against Licensee, which may include any of the forms of disciplinary action set forth in Minnesota Statutes section 156.127.

3. *Evidence at Hearing/Burden of Proof/Waiver of Hearing Before Administrative Law Judge.* At the hearing before the Board, the Committee and Licensee may present affidavits made on personal knowledge or authenticated documents and may present

argument based on such evidence in support of their positions. The record before the Board shall be limited to such affidavits, documents, and this Stipulation and Order. The Committee shall file with the Board all evidence it intends to present at the hearing and shall serve a copy on Licensee at least 14 days before the hearing. Licensee shall file with the Board all evidence he intends to present at the hearing and shall serve a copy on the Committee at least seven days before the hearing. The Committee must prove by a preponderance of the evidence that Licensee has violated this Stipulation and Order. The Board shall issue a final order within 30 days of the hearing. Licensee waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

4. *Costs.* If the Committee proves by a preponderance of the evidence that Licensee has violated this Stipulation and Order, the Board may require Licensee to pay costs of the proceedings. The costs of the proceedings may include the cost paid by the Board to the Office of the Attorney General for investigative and legal services, the cost of reproducing records and documents, Board staff time, travel costs and expenses, and Board members' per diem reimbursements, travel costs, and expenses.

D. *Statutory Procedures.* Nothing herein shall limit the Committee's right to attempt to resolve an alleged violation of this Stipulation and Order through the procedures of Minnesota Statutes section 214.103, subdivision 6, or to initiate a contested case proceeding under Minnesota Statutes chapter 14 based on an alleged violation of this Stipulation and Order.

VII.

ADDITIONAL INFORMATION

A. Licensee knowingly and voluntarily waives a contested case hearing and all other procedures before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or rules.

B. Licensee knowingly and voluntarily waives any and all claims against the Board, the Minnesota Attorney General, the State of Minnesota, and their agents, employees and representatives related to the investigation of the conduct herein, or the negotiation or execution of this Stipulation and Order, which may otherwise be available to Licensee.

C. This Stipulation and Order, the files, records and proceedings associated with this matter shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

D. Licensee shall be responsible for all costs incurred as a result of compliance with this Stipulation and Order.

E. Licensee has read, understands, and agrees to this Stipulation and Order and has voluntarily signed the Stipulation and Order. Licensee is aware that this Stipulation and Order must be approved by the Board before it goes into effect. The Board may either approve the Stipulation and Order as proposed, approve it subject to specified changes, or reject it. If the changes are acceptable to Licensee, the Stipulation and Order will take effect and the Order as modified will be issued. If the changes are unacceptable to Licensee or if the Board rejects the Stipulation and Order, it will be of no effect except as specified below.

F. Licensee agrees that if the Board rejects this Stipulation and Order or a lesser remedy than indicated in this settlement, and this case comes again before the Board, Licensee

will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Order or of any records relating to it.

G. This Stipulation and Order does not limit the Board's authority to proceed against Licensee by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or omission of Licensee which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

VIII.

DATA PRACTICES NOTICES

A. This Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Data regarding this action will be provided to data banks as required by Federal law or consistent with Board policy. While this Stipulation and Order is in effect, information obtained by the Board pursuant to this Order is considered active investigative data on a licensed health professional, and as such, is classified as confidential data pursuant to Minnesota Statutes section 13.41, subdivision 4.

B. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation.



ALBERT C. BATCHELDER, D.V.M.
Licensee

Dated: 9-6-, 2011

ORDER

Upon consideration of the Stipulation and all the files, records and proceedings herein, the terms of the Stipulation are approved and adopted, and the recommended remedy set forth in the Stipulation is hereby issued as an Order of this Board effective this 27 day of September, 2011.

MINNESOTA BOARD
OF VETERINARY MEDICINE



JOHN KING, D.V.M.
Executive Director

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