

STATE OF MINNESOTA
BOARD OF VETERINARY MEDICINE

In the Matter of Kathy Bauck

**CEASE AND DESIST ORDER AND
NOTICE OF RIGHT TO HEARING**

TO: Kathy Bauck, Pick of the Litter, Inc., 51402 410th Street, New York Mills, MN 56567

Minnesota law prohibits any person from practicing veterinary medicine without having first secured a veterinary license or temporary permit, as provided in Minn. Stat. ch. 156, unless the person is exempt from such licensing requirements.

The practice of veterinary medicine is defined in Minn. Stat. § 156.12, subd. 1, as follows:

Subdivision 1. **Practice.** The practice of veterinary medicine, as used in this chapter, shall mean the diagnosis, treatment, correction, relief, or prevention of animal disease, deformity, defect, injury, or other physical or mental conditions; the performance of obstetrical procedures for animals, including determination of pregnancy and correction of sterility or infertility; and the rendering of advice or recommendations with regard to any of the above. The practice of veterinary medicine shall include but not be limited to the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique. The practice shall not be construed to include the dehorning of cattle and goats or the castration of cattle, swine, goats, and sheep, or the docking of sheep.

Minnesota Statutes section 156.12, subd. 3, provides that “[a]ny person who sells or offers to apply any prescription drug, biologic preparation, including sera, vaccines, bacterins, tuberculin, mallein, johnin, or any other agent for the treatment, vaccination, or testing of any animal belonging to another, shall be engaged in the practice of veterinary medicine.”

Minnesota Statutes section 156.12, subd. 2(d) does not prohibit “the owner of an animal from caring for and administering to the animal belonging to the owner.” However, this

exemption from veterinary licensure requirements does not authorize an animal's owner to perform surgical procedures on the animal.

Pursuant to the above-referenced statutes, the Board of Veterinary Medicine, by its Complaint Review Committee, has determined as follows:

1. Kathy Bauck ("Respondent") is a dog breeder who owns and operates Pick of the Litter, Inc., a large dog breeding business in New York Mills, Minnesota. Pick of the Litter, Inc. has over 800 adult dogs, approximately 350 puppies and 32 breeds.

2. Respondent is not now and never has been licensed to practice veterinary medicine in the State of Minnesota and is not exempt from the licensure requirements set forth in Minn. Stat. ch. 156.

3. Pick of the Litter, Inc. is not a firm organized pursuant to Minnesota chapter 319B and is not authorized to practice veterinary medicine in the State of Minnesota.

4. The Board of Veterinary Medicine received complaints against Respondent, alleging that Respondent had performed surgical procedures both on puppies and dogs that she owned as well as on dogs she had sold to others.

5. The Board, through its Complaint Review Committee, obtained the following information in its investigation of the complaints:

a. Respondent has performed or attempted to perform spay surgeries on dogs she owned and on dogs owned by others, including the following:

(1) In 2002, Respondent performed a spay surgery on a female Papillon puppy had sold in December 2001. The Papillon was approximately six months old when Respondent performed the surgery. The dog continued to go into heat for the following four years. In June 2006, the owners presented the dog to a veterinarian, who performed surgery

on the dog and found uterine horns that were approximately 20x larger than normal and filled with fluid, as well as ovarian pedicles.

(2) In 2002, Respondent spayed a Rat Terrier she had already sold. The Rat Terrier was approximately six months old when Respondent performed the surgery. The surgical site never properly healed. The Rat Terrier died at about age two.

(3) Respondent sold a female Golden Retriever puppy in about June 2003. Approximately five or six months later, the owners had Respondent spay the Golden Retriever, which Respondent offered to do at no charge. The dog continued to go into heat despite the spay surgery performed by Respondent. In the spring of 2006, the owners presented the dog to a veterinarian who determined that the dog had a serious infection at the site of the spay operation. Upon performing exploratory surgery, the veterinarian determined that the dog still had her uterus and ovary.

b. Respondent has performed neuter surgeries on puppies she owned as recently as about April 2006.

c. Respondent has performed ear crops on puppies she owned as recently as about June 2006.

d. Respondent has performed tail dockings on puppies she owned.

e. Respondent has performed Cesarian sections on dogs she owned.

f. Respondent has performed hernia repairs on puppies or dogs she owned.

g. Respondent has removed dew claws on puppies or dogs she owned.

h. Respondent has provided vaccinations to puppies after she sold them to others.

i. Respondent's relevant training is limited to assisting a veterinarian in surgeries on several occasions.

j. Respondent used xylazine, a sedative, for anesthesia when she performed the spay and neuter surgeries. Xylazine alone does not provide a surgical plane of anesthesia.

6. Respondent, by the above conduct, has engaged in the practice of veterinary medicine without a license, in violation of Minn. Stat. § 156.10, and should therefore be ordered to cease and desist from further violations thereof.

7. The following Order is in the public interest and is necessary to protect the public health, safety and welfare.

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Minn. Stat. § 156.15, that Respondent shall cease and desist from:

a. Performing any surgical procedure on any puppy or dog owned by Respondent or by another, including, but not limited to, spay surgery, neuter surgery, Cesarean sections, hernia repairs, ear crops, tail dockings and dew claw removals;

b. Vaccinating any puppy or dog owned by another; or

c. Engaging in any other act or practice that constitutes the practice of veterinary medicine, as defined in Minn. Stat. § 156.12, in the State of Minnesota.

IT IS FURTHER ORDERED, pursuant to Minn. Stat. § 156.15, subd. 3, that Respondent may request a hearing in this matter. Such request shall be made in writing and delivered to the Complaint Review Committee ("Committee") of the Board of Veterinary Medicine ("Board"), 2829 University Avenue S.E., Minneapolis, MN 55414, whereupon the Committee shall set a date for hearing within 30 days after its receipt of the request unless Respondent and the Committee by agreement waive the 30-day time period. If no hearing is

requested by Respondent within thirty (30) days of service of this Order, this Order will become final and will remain in effect until it is modified or vacated by the Board.

IT IS FURTHER ORDERED, that if a hearing is requested, this Order will remain in effect until it is modified or vacated or made permanent by further order of the Board pursuant to Minn. Stat. § 156.15, subd. 4.

IT IS FURTHER ORDERED, that in the event a hearing is requested in this matter, it will be held before an Administrative Law Judge to be appointed by the Chief Administrative Law Judge for the State of Minnesota, Office of Administrative Hearings, 100 Washington Square, Suite 1700, 100 Washington Avenue South, Minneapolis, Minnesota 55401-2138, Telephone: (612) 341-7600. All parties have the right to represent themselves or to be represented throughout the proceedings herein by legal counsel or a person of their choice if not otherwise prohibited as the unauthorized practice of law. The hearing will be conducted pursuant to the contested case procedures as prescribed in Minn. Stat. §§ 14.57-14.69 and the Rules of the Office of Administrative Hearings, Minn. R. 1400.5100-1400.8400. Failure to attend a hearing in this matter after being duly notified may result in the allegations of this Order being taken as true. Questions concerning the issues raised in this Order, informal disposition of this proceeding or discovery may be directed to Assistant Attorney General Susan E. Damon, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, Telephone: (651) 297-4010.

Dated:

10/12/2006

BOARD OF VETERINARY MEDICINE
Complaint Review Committee

By:

John King DVM
JOHN KING, D.V.M.
Executive Director

2829 University Avenue S.E., Suite 540
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AG: #1681238-v1