

**BEFORE THE MINNESOTA  
BOARD OF VETERINARY MEDICINE**

In the Matter of  
James D. Diemer, D.V.M.  
License No. 06705

**AGREEMENT FOR  
CORRECTIVE ACTION**

This Agreement for Corrective Action (“Agreement”) is entered into by and between James D. Diemer, D.V.M (“Licensee”) and the Complaint Review Committee (“Committee”) of the Minnesota Board of Veterinary Medicine (“Board”) pursuant to the authority of Minn. Stats. § 156.127, subd. 2 and § 214.103, subd. 6(a). Licensee and the Committee hereby concur that this Agreement shall be based on the following:

**FACTS**

1. On May 11, 2005, Licensee became licensed as a veterinarian in Minnesota.
2. At all times relevant to these allegations, Licensee was the owner of Britt Veterinary Clinic (“Clinic”) located in Britt, Iowa, and practiced veterinary medicine in Minnesota as well as Iowa.
3. On February 28, 2014, the Minnesota Board of Pharmacy sent Licensee a letter inquiring about Licensee’s practice of compounding medications for animal use. A second letter requesting additional information was sent on April 3, 2014.
4. The Minnesota Board of Pharmacy shared the information that Licensee provided regarding the dispensing of compounded medications from Licensee’s clinic with the Minnesota Board of Veterinary Medicine.
5. Licensee compounded antibiotics with other drugs for extra-label oral use via medicated water for swine in Minnesota.

6. Licensee utilized bulk powders for compounding drugs for extra-label use which may be in contravention of the federal Animal Medicinal Drug Use Clarification Act of 1994 (“AMDUCA”) regulations.

7. Licensee failed to select a commercial form of gentamicin that was FDA-approved for oral use in swine in the compounded medications.

8. Licensee failed to comply with all label requirements for compounded medications dispensed to clients, including date of filling the prescription, strength of all drug components, and appropriate cautionary statements indicating that these constituted extra-label use of drugs.

9. Licensee did not consistently inform clients that the compounded formulations constituted extra-label drug use nor that one of the antibiotics used, amikacin, was not approved for use in any food animal.

10. Licensee did not record dispensing of compounded medications in the herd’s medical records.

11. Licensee used compounded medications as a preventative measure for infectious diseases of pigs without consistently establishing medical evidence in that population that specific, extra-label, compounded antibiotics were justified.

12. Licensee provided clients with withdrawal times for the compounded medications that were not based on the compounded combinations that were administered. Licensee provided clients with a withdrawal time for amikacin, for which no withdrawal time has been established by the FDA in swine.

13. On November 5, 2014, Licensee met with the Committee, composed of Ronald Swiggum, D.V.M., Board member, and David Richter, Board member, to discuss allegations made in a Notice of Conference dated October 13, 2014. Jennifer Middleton, Assistant Attorney General, represented the Committee at the conference. Julia Wilson, D.V.M., Executive Director

of the Board, and Steven Huff, R.Ph., Board of Pharmacy Surveyor, also attended the conference.

### **CORRECTIVE ACTION**

Based on the available information and discussion at the conference, Licensee and Committee agree that the conduct above violates Minn. Statute § 156.18 (Veterinary Prescription Drugs); 156.19 (Extra-Label Use); Minn. Rule 6800.9954 (Records); and 9100.0800, subp. 2 (Pharmaceutical services) and subp. 4 (Recordkeeping). Licensee and the Committee have agreed to enter into this Agreement for Corrective Action as follows:

15. Within one month from the date of this Agreement, Licensee must submit to the Committee documentation of all of his veterinary continuing education from the most recent license renewal period, March 1, 2011 to February 28, 2013.

16. Within 60 days of the date of this Agreement, Licensee will submit to the Committee a plan outlining how he will comply with all AMDUCA and Minnesota regulations in his medication compounding practices. This plan should include a log of all compounded medication prepared for clients, based on the recommendations of U.S. Pharmacopeial Convention 795—Guidelines for Non-Sterile Compounding.

17. Within 60 days of the date of this Agreement, Licensee will submit to the Committee a written summary of his protocol for antimicrobial treatment selection for group treatment of swine.

18. Within six months of the date of this Agreement, Licensee shall submit to the Committee evidence of completion of at least 4 hours of interactive continuing education on the topic of compounding of drugs for food animal use; and 4 hours on interactive continuing education on the topic of management of infectious bacterial diseases in isoweaned/feeder pigs.

19. Within four months of approval of Licensee's plan for compliance with all AMDUCA and Minnesota regulations in his medication compounding practice, Licensee will submit examples of full herd medical records for review and approval by the Committee. The records selected for review should reflect the preceding four months of veterinary care from three different clients for whom compounded medications have been dispensed. The herds should have a minimum of 1000 isoweaned/feeder pigs during that four month period.

20. Within four months of approval of Licensee's plan for compliance with all AMDUCA and Minnesota regulations in his medication compounding practice, Licensee will submit his compounding log/record for the preceding four months for review and approval by the Committee.

#### **OTHER INFORMATION**

21. Licensee has been advised by Committee representatives that Licensee may choose to be represented by legal counsel in this matter. Licensee knowingly waived legal representation.

22. Upon Licensee's satisfactory completion of the corrective actions referred to above, the Committee agrees to dismiss the complaint concerning the matters referred to in the facts above. Licensee agrees that the Committee shall be the sole judge of satisfactory completion. Licensee understands that if, after dismissal, the Committee receives additional complaints alleging conduct similar to that referred to in the facts above, the Committee may reopen the dismissed complaints.

23. If Licensee fails to complete the corrective action satisfactorily or if the Committee receives additional complaints alleging conduct similar to that referred to in the facts above, the Committee may, in its discretion, reopen the investigation and proceed according to

Minn. Stat. chs. 14, 156, and 214. Licensee agrees that failure to complete corrective action satisfactorily constitutes failure to cooperate under Minn. Stat. § 156.123 and may subject Licensee to disciplinary action by the Board.

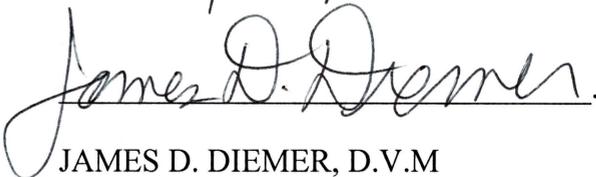
24. Licensee shall be responsible for all costs incurred as a result of compliance with this Agreement.

25. The effective date of this Agreement shall be the date it is executed by the Committee. The Agreement shall remain in effect until the Committee dismisses the complaint unless the Committee receives additional information that renders corrective action inappropriate. Upon receipt of such information, the Committee may, in its discretion, proceed according to Minn. Stat. chs. 14, 156, and 214.

26. Licensee understands this Agreement does not constitute disciplinary action. Licensee further understands and acknowledges this Agreement and the dismissal letter issued upon successful completion of the corrective action are classified as public data pursuant to Minn. Stat. § 13.41, subd. 5.

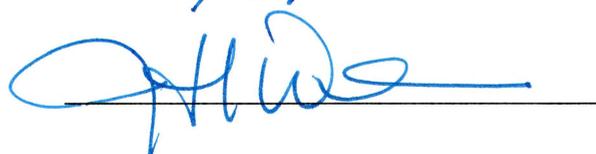
27. Licensee hereby acknowledges that he has read and understands this Agreement and has voluntarily entered into it. This Agreement contains the entire agreement between the Committee and Licensee, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.

Dated: 1/20/15



JAMES D. DIEMER, D.V.M.  
LICENSEE

Dated: 1/27/15



JULIA WILSON, D.V.M.  
EXECUTIVE DIRECTOR  
FOR THE COMPLAINT REVIEW  
COMMITTEE