

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
William N. Dudley, D.V.M.
License No. C0858

AMENDED STIPULATION AND ORDER

AMENDED STIPULATION

William N. Dudley, D.V.M. ("Licensee"), and the Minnesota Board of Veterinary Medicine Complaint Review Committee ("Complaint Review Committee") agree that the above-referenced matter may be resolved 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 Amended Stipulation and Order.

II.

CONFERENCE/COMPLAINT REVIEW COMMITTEE

A. On August 4, 1998, Licensee appeared before the Complaint Review Committee, composed of Susan Poirot, D.V.M., Board President, Fran Smith, D.V.M., Board Member, and Roland C. Olson, D.V.M., Executive Director of the Board, to discuss allegations made in a

Notice of Conference dated June 24, 1998. Susan E. Damon, Assistant Attorney General, represented the Complaint Review Committee at the conference.

B. Licensee was advised of his right to be represented by legal counsel at the conference and knowingly and voluntarily waived that right.

C. Following the expiration of Dr. Poirot's term on the Board, Dr. Smith was elected Board President and Meg Glattly, D.V.M., replaced Dr. Poirot as a member of the Complaint Review Committee. The Complaint Review Committee composed of Drs. Smith, Glattly and Olson negotiated this Amended Stipulation and Order with Licensee.

III.

FACTS

A. For purposes of Board of Veterinary Medicine proceedings only and without prejudice to Licensee in a proceeding in any other forum, the Board may consider the following as true:

1. Licensee's date of birth is May 6, 1931. He was licensed by the Board in 1958.
2. Licensee currently practices veterinary medicine at Brooklyn Pet Hospital in Brooklyn Center, Minnesota. Licensee is a sole practitioner.
3. In April and May 1996, Licensee provided care to Tigger, a neutered male domestic short hair cat. Tigger was injured in a fight on March 30, 1996 and was brought to Licensee's clinic on April 1, 1996 with severe wounds on his front left and right rear legs.
4. Licensee's choice and frequency of use of steroids and antibiotics to treat Tigger were not consistent with prevailing standards of wound management practice.

5. On April 29, 1997, Licensee and the Complaint Review Committee entered into an Agreement for Corrective Action regarding Licensee's care of Tigger. The Agreement required Licensee to attend four hours of veterinary continuing education in wound management, in addition to meeting all continuing education requirements of Minn. R. 9100.1000, and to document his attendance at the wound management course to the Board within twelve months. Licensee failed to comply with this requirement. Accordingly, the complaint regarding Licensee's care of Tigger was reopened.

6. Between August 30, 1997 and October 7, 1997, Licensee provided care to Drizt, a neutered male Himalayan cat, for urinary tract problems.

7. Licensee's medical records for Drizt are inadequate to explain the course of care provided by Licensee and do not comport with the requirements set forth in Minn. R. 9100.0800, subp. 4.

8. Licensee did not record in Drizt's medical record all of the instances in which Drizt's owner brought him to Licensee's clinic and did not record in Drizt's medical record at least one telephone conversation with Drizt's owner.

9. Although Drizt was hospitalized at Licensee's clinic on September 20, 21, 22 and 23, 1997, Licensee recorded no examination findings in Drizt's record for those days.

10. The complaint regarding Licensee's care of Drizt included allegations of unsanitary conditions at Licensee's clinic.

11. By letter dated March 2, 1998, the Board's executive director notified Licensee that a complaint had been filed regarding Licensee's care of Drizt and requested that Licensee provide copies of Drizt's medical records and a statement regarding the allegations within 30 days.

12. Licensee did not provide Drizt's medical records until May 11, 1998, after Licensee received two additional requests for the records from the Board's executive director.

13. Licensee never provided the Board with a statement regarding the allegations about Drizt's care as requested by the Board's executive director.

14. On September 9, 1998, the Board issued a Stipulation and Order in this matter. The September 9, 1998 Stipulation and Order placed a number of conditions on Licensee's license, including requirements that Licensee take four hours of continuing education in wound management and four hours of individual instruction in record keeping. Licensee completed the continuing education in wound management and the individual instruction in record keeping. At all times material hereto, the other terms of conditional licensure under the September 9, 1998 Stipulation and Order remained in effect.

15. The Board received a complaint about the care Licensee provided to Ebony, a six-month-old female kitten, on May 11 and 12, 2000.

16. On May 11, 2000, Ebony's owner called Licensee after normal clinic hours and asked if Licensee could see the kitten, who was unable to walk or stand and had lost bowel control. Licensee agreed to meet Ebony's owner at his clinic.

17. Licensee took the kitten's temperature, which was 90.1 degrees Fahrenheit, determined that the kitten's mucous membranes were cyanotic, that there was bilateral swelling in the muzzle and that the kitten was in shock, possibly due to an allergic reaction.

18. Licensee gave the kitten .4cc's of penicillin. Licensee's veterinary medical record also indicates that he warmed the kitten's body. Following this treatment, Licensee left the clinic, leaving the kitten unattended overnight.

19. The following morning, the kitten's temperature was 92.3 degrees Fahrenheit. Licensee gave the kitten .4cc's of Vetalog and left the clinic to go to the barbershop.

20. While Licensee was at the barbershop, Ebony's owner tried to get the kitten released to take her to her regular veterinary clinic. Licensee's employees would not release the kitten because of Licensee's policy that only he may discharge a patient.

21. Licensee returned to his clinic after Ebony's owner had waited for approximately one hour and a half. Ebony's owner took her to her regular veterinary clinic immediately after Licensee discharged the kitten. By that time, however, the kitten was comatose and died shortly after arrival.

IV.

LAWS

A. Licensee acknowledges that the facts and conduct described in section III above constitute violations of Minn. Stat. §§ 156.081, subd. 2(11) and (12); 156.123; Minn. R. 9100.0200, subp. 7; 9100.0700, subp. 1.A, .B, .C and .H; and 9100.0800, subps. 1 and 4; and are sufficient grounds for the disciplinary action described in section V below.

V.

DISCIPLINARY ACTION

A. Conditional License. Until further order of the Board, Licensee's license to practice veterinary medicine in the State of Minnesota is conditioned on his compliance with the following requirements:

1. Record Keeping Requirements.

a. Licensee shall maintain records on all patients in accordance with the record keeping requirements set forth in Minn. R. 9100.0800, subp. 4.

b. Licensee's compliance with Minn. R. 9100.0800, subp. 4 shall specifically include:

(1) recording in the patient record each patient visit, whether or not Licensee provides treatment at the visit;

(2) recording in the patient record each telephone conversation about a patient; and

(3) recording in the patient record of each hospitalized patient daily examination findings and any medication or treatment provided.

2. Entry and Inspection Authority of Board. Until further order of the Board, Licensee shall permit a Board member or Board designee, including the Board's executive director, to enter and inspect Licensee's clinic for the purpose of determining Licensee's compliance with the record keeping requirements of Minn. R. 9100.0800, subp. 4 and V.A.1 herein and/or for the purpose of determining Licensee's compliance with the cleaning, sanitation and sterilization requirements set forth in Minn. Rules 9100.0200, 9100.0300 and 9100.0800, subp. 3. Entry and inspection under this provision shall occur during normal practice hours when Licensee or an employee or agent of Licensee is on the premises, may occur with or without prior notice to Licensee and may occur as many times as the Board or its designee reasonably deems necessary.

a. Examination and Removal of Records. Upon entry and inspection by the Board or its designee, Licensee shall permit the Board or its designee to examine the records of any patient and to remove such records for up to seven days for review and copying. Nothing herein shall be construed to limit or otherwise to be in derogation of the Board's authority to obtain patient records under Minn. Stat. §§ 156.123 or 214.10, subd. 3. Nothing

herein shall prohibit the Board from using records obtained pursuant to this paragraph for any purpose in connection with any disciplinary action against Licensee, including any action arising out of an alleged violation of this Amended Stipulation and Order.

b. Evidence of Violation(s) of Cleaning, Sanitation and Sterilization Requirements/Notice of Violation(s)/Consequences of Failure to Correct Violation(s). Upon entry and inspection by the Board or its designee and upon any reinspection, Licensee shall permit the Board or its designee to videotape, photograph or take biological samples from Licensee's clinic for the purpose of obtaining evidence of violations of the cleaning, sanitation and sterilization requirements of Minn. Rules 9100.0200, 9100.0300 and 9100.0800, subp. 3. If the Board or its designee determines that Licensee has violated any of these provisions, the Board or its designee shall provide written notice to Licensee of the violation(s) and shall provide a date by which Licensee must correct the violation(s), which shall be no less than three days unless the Board or its designee determines that a shorter time period for correction of the violation(s) is necessary to prevent imminent risk of harm to patients. Licensee's failure to correct any violation by the date specified, as determined by the Board or its designee through a reinspection, shall be deemed a violation of this Amended Stipulation and Order. Nothing herein shall be construed to limit or to otherwise be in derogation of the Board's authority to enter and inspect Licensee's clinic under Minn. Stat. § 156.121. Nothing herein shall prohibit the Board from using any evidence obtained pursuant to this paragraph for any purpose in connection with any disciplinary action against Licensee, including any action arising out of an alleged violation of this Amended Stipulation and Order.

3. Compliance with Requests for Information or Documentation. Licensee shall comply with any written request for information or documentation by the Board or its designee within 30 days of the date of the request.

4. Continuing Education Course in Emergency Veterinary Medicine. Within six months of the date of this Amended Stipulation and Order, Licensee shall, at his own expense, take six hours of continuing education in emergency veterinary medicine. The course shall be pre-approved by the Complaint Review Committee and shall specifically include instruction in the treatment of shock, allergic reactions and poisoning. The six hours of continuing education in emergency veterinary medicine shall be in addition to the 40 hours of continuing education required of all licensees of the Board within a two-year period in accordance with Minn. R. 9100.1000. Upon completion of the six hours of continuing education, Licensee shall cause the course provider to provide the Board with documentation of Licensee's attendance. If an appropriate continuing education course in emergency veterinary medicine is not available in Minnesota within six months of the date of this Amended Stipulation and Order, Licensee may substitute six hours of one-on-one instruction in emergency veterinary medicine taught by an instructor pre-approved by the Complaint Review Committee to fulfill the requirements of this paragraph. Licensee shall be solely responsible for all fees and costs associated with the one-on-one instruction.

5. After-Hours Emergency Care Restricted. Licensee is prohibited from providing emergency care after regular clinic hours to any person other than a client whose animal(s) Licensee has treated within the previous 18 months and is prohibited from advertising that he provides emergency care to persons other than such clients. Licensee shall refer all other persons seeking after-hours emergency care to an emergency veterinary facility. Before Licensee

provides emergency care to a client whose animal(s) Licensee has treated within the previous 18 months, Licensee shall inform the client of the option of taking the animal to an emergency veterinary facility. Licensee shall either provide the foregoing information to the client in writing and shall obtain the client's written consent, or shall obtain the client's verbal consent and note in the patient record that Licensee provided the client with the option of taking the animal to an emergency veterinary facility but that the client declined and consented to Licensee's treatment of the animal.

6. Overnight Hospitalization of Critically Ill or Injured Patients Prohibited Without Informed Consent. Licensee is prohibited from hospitalizing any critically ill or injured patient overnight unless Licensee first obtains the client's consent after: (a) informing the client that the patient will be left unattended overnight; (b) adequately explaining the risks of leaving the patient unattended so that the client can make an informed decision; and (c) providing the client with the option of taking the animal to an emergency veterinary facility. Licensee shall either provide the foregoing information to the client in writing and shall obtain the client's written consent, or shall obtain the client's verbal consent and note in the patient record what information Licensee provided and that the client consented to overnight hospitalization after being provided with such information.

7. Admission of Critically Ill or Injured Animals During Regular Clinic Hours. Licensee's employees shall not admit any critically ill or injured animal during regular clinic hours if Licensee is not in the clinic. If a person brings a critically ill or injured animal to Licensee's clinic while Licensee is not on the premises, Licensee's employees shall immediately inform the person that Licensee is not present and shall immediately provide the person with the option of taking the animal to another veterinary clinic in lieu of waiting for Licensee to return.

8. Access to Licensee During Regular Clinic Hours/Discharge of Animals. If

Licensee hospitalizes a client's critically ill or injured animal, Licensee shall be immediately accessible to the client by cellular telephone at all times during regular clinic hours when Licensee is not in the clinic. Licensee shall immediately authorize discharge to the client of a critically ill or injured animal when the client informs Licensee that he or she wants to transfer the animal to another veterinary clinic, whether or not Licensee is in the clinic at the time of such request.

VI.

**CONSEQUENCES OF A VIOLATION
OF THIS AMENDED STIPULATION AND ORDER**

A. Summary Proceeding Before the Board. If the Complaint Review Committee determines that Licensee has violated this Amended Stipulation and Order, it may seek additional discipline by bringing the matter directly to the Board by the following summary procedure:

1. Notice of Hearing/Response. The Complaint Review Committee shall schedule a hearing before the Board. At least 30 days before the hearing, the Complaint Review Committee shall mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice shall designate the time and place of the hearing. At least seven days before the hearing, Licensee shall submit a written response to the allegations. 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 in paragraph VLA.3 below to determine whether to take any additional disciplinary action against Licensee, which may include any of the forms of disciplinary action set forth in Minn. Stat. § 156.127, subd. 1(2)-(8).

3. Evidence at Hearing/Filing Requirements/Burden of Proof/Waiver of Hearing Before Administrative Law Judge. The evidence at the hearing before the Board shall be limited to affidavits made on personal knowledge; any authenticated documents; patient records; evidence of violations of the cleaning, sanitation or sterilization requirements of Minn. Rules 9100.0200, 9100.0300 and 9100.0800, subp. 3 obtained under paragraph V.A.2 herein and this Amended Stipulation and Order. The Complaint Review Committee shall file with the Board all evidence it intends to present at the hearing, along with any brief or memorandum, 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, along with his response to the Complaint Review Committee's allegations and any brief or memorandum, and shall serve a copy on the Complaint Review Committee at least seven days before the hearing. The parties may present oral argument at the hearing. Argument shall not refer to matters outside the record. If Licensee has failed to submit a timely response to the allegations, Licensee may not contest the allegations, but may present argument concerning the appropriateness of any additional discipline sought by the Complaint Review Committee. The Complaint Review Committee shall have the burden of proving by a preponderance of the evidence that Licensee has violated the Amended Stipulation and Order. 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. Board Decision/Right of Appeal From Final Order Imposing Additional Discipline. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board will dismiss the allegations. If a violation is proven, the Board may take additional disciplinary action as set forth in Minn. Stat. § 156.127, subd. 1(2)-(8). The Board

shall issue a final order within 30 days of the hearing. Nothing herein shall be construed as a waiver of Licensee's right of appeal to the Minnesota Court of Appeals from a final order issued under the summary of procedure set forth in paragraphs VI.A.1-4.

5. Correction of Violation/Committee Decision on Initiating Summary Proceeding. Licensee's correction of a violation before the hearing of the Board may be taken into account by the Board but shall not limit the Board's authority to impose additional discipline for the violation. A decision by the Complaint Review Committee not to initiate a summary proceeding when it first learns of a violation will not waive the Complaint Review Committee's right to later seek additional discipline for that violation, either alone or in combination with other violations, in a summary proceeding at a later time, subject to the limitations set forth in paragraph VI.B. below.

B. Summary Procedure Remains in Effect Until Further Order of the Board. The Complaint Review Committee's authority to seek additional discipline under the summary procedure set forth in paragraphs VI.A.1-4 for any violation of this Amended Stipulation and Order shall remain in effect until further order of the Board granting Licensee an unconditional license.

C. Statutory Procedures. Nothing herein shall limit the Complaint Review Committee's right to attempt to resolve an alleged violation of this Amended Stipulation and Order through the procedures of Minn. Stat. § 214.103, subd. 6. Nothing herein shall limit the Complaint Review Committee's right to temporarily suspend Licensee's license under Minn. Stat. § 156.126 or to initiate a contested case proceeding under Minn. Stat. ch. 14 based on a violation of this Amended Stipulation and Order.

VII.

PETITION FOR UNCONDITIONAL LICENSE

A. Licensee may petition the Board to issue an order granting him an unconditional license at any regularly scheduled Board meeting no sooner than two years from the date of this Amended Stipulation and Order. At the time of his petition, Licensee shall have the burden of proving that he has fully complied with this Amended Stipulation and Order and that he is able to practice veterinary medicine safely and in compliance with all statutes and rules governing the profession in the State of Minnesota without being subject to the terms of this Amended Stipulation and Order.

VIII.

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 Amended Stipulation and Order, which may otherwise be available to Licensee.

C. This Amended 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 was represented by counsel in this matter.

E. Licensee has read, understands and agrees to this Amended Stipulation and Order and has voluntarily signed the Amended Stipulation and Order. Licensee is aware that this Amended Stipulation and Order must be approved by the Board before it goes into effect. The Board may either approve the Amended Stipulation and Order as proposed, approve it subject to specified change, or reject it. If the changes are acceptable to Licensee, the Amended 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 Amended Stipulation and Order, it will be of no effect except as specified in paragraph VIII.F.

F. Licensee agrees that if the Board rejects this Amended 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 Amended Stipulation and Order or of any records relating to it.

G. This Amended Stipulation and Order shall 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.

IX.

DATA PRACTICES NOTICES

A. This Amended Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minn. Stat. § 13.41, subd. 4.

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



WILLIAM N. DUDLEY, D.V.M.
Licensee

Dated: 6-4, 2001.

ORDER

Upon consideration of the Amended Stipulation and all the files, records and proceedings herein, the terms of the Amended Stipulation are approved and adopted, and the recommended disciplinary action set forth in the Amended Stipulation is hereby issued as an Order of this Board effective this 19 day of Sept, 2001.

MINNESOTA BOARD

OF VETERINARY MEDICINE



ROLAND C. OLSON, D.V.M.
Executive Director

