

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
Albert L. Edwards, D.V.M.
License No. 00675

STIPULATION AND ORDER

STIPULATION

Albert L. Edwards, 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 under 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.

CONFERENCE

A. On February 10, 2003, Licensee appeared before the Complaint Review Committee, composed of Lorna Reichl, D.V.M., Board Member, Joanne Schulman, D.V.M., Board Secretary Treasurer, and John King, D.V.M., Executive Director of the Board, to discuss allegations set forth in a Notice of Conference dated January 30, 2003. Martha A. Ballou, Esq.

represented Licensee at the conference. Susan E. Damon, Assistant Attorney General, represented the Complaint Review Committee.

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 was initially licensed by the Board as a veterinarian on February 9, 1975.

2. Licensee is owner of, and sole practitioner at, All Care Veterinary Clinic, St. Paul, Minnesota.

3. The Board received a complaint about Licensee's care of Athena (Y.O.B. 1989), a Collie to whom Licensee provided veterinary care from about July 12, 1999 to February 27, 2002. Based on its investigation of the complaint and on its discussion with Licensee at the February 10, 2003 conference, the Committee determined that Licensee's record keeping and some of his veterinary practices did not meet current minimum standards. Examples include the following:

a. At Athena's initial visit, on July 12, 1999, the following occurred:

(1) Licensee performed vaccinations on Athena (DHLPP and Lymes) without documenting that he first performed a physical examination of the dog.

(2) Licensee performed a heartworm test (Iindex antigen test), which was positive. Licensee dispensed Heartgard for Athena.

b. On July 15, 1999, Licensee began treating Athena for heartworm disease with Immiticide. Licensee did not retest the dog for heartworm disease before commencing this treatment.

c. On November 3, 1999, the following occurred:

(1) Licensee performed a dental cleaning on Athena. Despite the dog's recent history of heartworms and her age, Licensee used xylazine and Bio-Tal instead of gas anesthesia. Licensee's instructions on an invoice to Athena's owner dated July 12, 1999, stated: "Athena's teeth need professional care. This entails the use of gas anesthesia to allow us to thoroughly work on all of Athena's teeth without causing discomfort."

(2) Licensee used Yobine to reverse the xylazine, but did not document the quantity of the Yobine used.

d. Licensee's April 20, 2000 record indicates that he examined "large, hard bumps, several inches in diameter" on Athena's back. The record states that they started developing the previous fall, after treatment for heartworm disease was started. In the April 20, 2000 record, Licensee documented negative findings from a fine needle aspiration of the bumps. Although Licensee continued to provide veterinary care to Athena until February 27, 2002, there is no indication in Licensee's records that he monitored the bumps after Athena's April 20, 2000 visit.

e. On July 14, 2000, the following occurred:

(1) Licensee performed dentistry on Athena, but again used xylazine and Bio-Tal instead of gas anesthesia.

(2) An invoice to Athena's owner shows that Licensee used Yohimbine reversal in connection with the dental procedure, but Licensee's medical record for this date contains no reference to this drug.

(3) An invoice to Athena's owner and Licensee's computerized patient chart shows that Licensee dispensed Tumil-K for Athena on July 14 2000, but Licensee's medical record for this date contains no reference to this prescription. Subsequent record entries do not indicate that Licensee performed follow-up appropriate to the Tumil-K prescription, such as rechecking the dog's potassium level.

f. October 13, 2001, Licensee's medical record for Athena indicates that Centrine, metronidazole and Rimadyl were dispensed. Licensee did not document tentative diagnoses to support the Centrine and metronidazole prescriptions, and the only information supporting the Rimadyl prescription is a statement in the July 12, 1999 entry that the dog "has arthritis." Licensee did not document in the medical record the location of Athena's arthritis or the history of this condition.

g. Licensee's February 27, 2002 medical record for Athena indicates that Etodolac 400mg was dispensed. Licensee did not document a diagnosis to support this prescription other than the July 12, 1999 entry stating that the dog "has arthritis." There is also no treatment plan and no frequency listed for this drug.

h. Licensee's medical record for Athena contains physical exam checklist stickers in entries for several dates, but only the dog's weight, and sometimes her temperature, was recorded on the examination stickers. Licensee stated at the conference that he records only abnormal findings of physical examinations.

i. Licensee acknowledged at the conference that he uses injectable anesthesia for dental procedures and surgeries, as he is not proficient in the use of gas anesthesia.

4. Licensee has fully cooperated with the Board's investigation in this matter.

5. Before resolution of this matter, Licensee voluntarily undertook the following actions to address concerns raised by the Committee:

a. Licensee purchased a new gas anesthesia machine and began instruction in its use;

b. Licensee installed and began using new computer software to enable entry of all information into his records required by this Order; and

c. Licensee arranged for anesthesia training at an accredited college of veterinary medicine.

IV.

LAWS

A. Licensee acknowledges that the facts and conduct described in section III above would, if proven at a hearing, constitute violations of Minn. Stat. § 156.081, subd. 2(11) (departure from minimum standards of acceptable and prevailing practice) and Minn. R. 9100.0800, subp. 4 (record keeping requirements) and agrees to the remedy set forth below.

V.

REMEDY

A. *Conditional Licensure.* Licensee's license to practice veterinary medicine in the State of Minnesota is placed in conditional status. During the period of conditional licensure, Licensee shall comply with each of the following terms, conditions and requirements:

1. *Physical Examination Training and Practice Requirements.*

a. Within six months of the date of this Order, Licensee shall successfully complete at least four hours of training in conducting physical examinations and documenting physical examination findings. The training must be preapproved by the Complaint Review Committee and may be either a continuing veterinary education course, a course at an accredited college of veterinary medicine, one-on-one training or a combination thereof. Licensee shall notify the Board in writing when he completes the training. Within 60 days after Licensee completes the training, he shall demonstrate to the satisfaction of the Complaint Review Committee or its designee his physical examination of an animal and his documentation of the examination findings.

b. Licensee shall conduct a physical examination of each patient in all circumstances where minimum standards of acceptable and prevailing practice so require.

2. *Anesthesia Training and Anesthesia Requirements.*

a. Within 12 months of the date of this Order, Licensee shall successfully complete training in the use of anesthesia. The training must be preapproved by the Complaint Review Committee and its content must be essentially equivalent to a two-week senior student rotation in anesthesia at the University of Minnesota College of Veterinary Medicine. The training may be either a clinical rotation at an accredited college of veterinary medicine, one-on-one training or a combination thereof. Licensee shall notify the Board in writing when he completes the training. Within 60 days after Licensee completes the training, he shall demonstrate to the satisfaction of the Complaint Review Committee or its designee his proficiency in the use of gas anesthesia.

b. Licensee shall use the appropriate form of anesthesia, including gas anesthesia when indicated, in accordance with minimum standards of acceptable and prevailing veterinary practice.

3. *Vaccination Training and Vaccination Requirements.*

a. Within six months of the date of this Order, Licensee shall complete training in small animal vaccinations, including examination and risk assessment appropriate to each vaccine. The training must be preapproved by the Complaint Review Committee and may be either a continuing veterinary education course, a course at an accredited college of veterinary medicine, one-on-one training or a combination thereof. Licensee shall notify the Board in writing no later than 30 days after he completes the training.

b. Licensee shall conduct the appropriate examinations and risk assessments, in accordance with minimum standards of acceptable and prevailing veterinary practice, before administering any vaccine to an animal.

4. *Medical Records Training and Record Keeping Requirements.*

a. Within 12 months of the date of this Order, Licensee shall take a medical records course and pass an examination in record keeping. The course must be preapproved by the Complaint Review Committee and may be either a continuing veterinary education course, a course at an accredited college of veterinary medicine, one-on-one training or a combination thereof. The examination must also be preapproved by the Complaint Review Committee. Licensee shall notify the Board in writing no later than 30 days after he completes the training and passes the examination.

b. Licensee shall comply with the record keeping requirements set forth in Minn. R. 9100.0800, subp. 4. Licensee's compliance with Minn. R. 9100.0800, subp. 4 shall specifically include, but not necessarily be limited to:

- (1) Documentation of all examination findings, even if negative;
- (2) Documentation of all conversations with clients pertaining to the health of a patient;
- (3) Documentation of all recommendations for testing, treatment plans or referrals;
- (4) Laboratory test results;
- (5) X-ray findings;
- (6) All drugs prescribed, administered or dispensed, including all drugs used for anesthesia;
- (7) Diagnoses or rationale supporting drugs prescribed, administered or dispensed, and
- (8) Drug dosages and directions for use.

5. *Continuing Education Audit.* At any time while this Order is in effect, the Complaint Review Committee may require Licensee to furnish proof of satisfactorily meeting the continuing education requirements set forth in Minn. R. 9100.1000, subp. 5.

6. *Inspection and Records Review Authority.* Effective immediately and until such time as Licensee is granted an unconditional license in accordance with the procedures set forth in part VII below, Licensee shall permit a Board member or Board designee to enter and inspect any clinic in which Licensee practices and to examine and, as deemed necessary by the inspector, to remove from the premises for review and copying, Licensee's medical records for the purpose of determining his compliance with this Order. Entry and inspection under this part shall occur during normal business hours when Licensee or an agent of Licensee is on the premises, may occur with or without prior notice to Licensee and may occur as many times

during the effective period of this Order as the Board or Complaint Review Committee deems necessary.

7. *Costs of Compliance.* Licensee is responsible for all costs associated with his compliance with this Order, including all costs for the required training.

8. *No Hiring of Pre-Veterinary Students.* Licensee shall not hire any pre-veterinary college student to work in his clinic while this Order is in effect, provided that nothing herein shall require that Licensee terminate any staff employed by Licensee before the date of this Order.

VI.

CONSEQUENCES OF A VIOLATION OF THIS STIPULATION AND ORDER

A. *Summary Proceeding Before the Board.* Subject to the limitations set forth in paragraph VI.C below, if the Complaint Review Committee determines that Licensee has violated any term or condition of this Stipulation and Order, the Complaint Review Committee may, in its discretion, seek additional discipline against Licensee by the following 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 Complaint Review Committee. In addition, the notice shall designate the time and place of the hearing. At least 10 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 VI.A.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.

3. *Evidence at Hearing/Burden of Proof/Waiver of Hearing Before Administrative Law Judge.* At the hearing before the Board, the Complaint Review Committee and Licensee may present affidavits made on personal knowledge, authenticated documents, veterinary medical records 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 Complaint Review Committee shall file with the Board all evidence it intends to present at the hearing and shall serve a copy on Licensee at least 30 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 Complaint Review Committee at least 10 days before the hearing. The Complaint Review 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. 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 procedures set forth in paragraphs VI.A.1-3.

B. *Statutory Procedures.* Nothing herein shall limit the Complaint Review Committee's right to attempt to resolve an alleged violation of this 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, to initiate a contested case proceeding under Minn. Stat. ch. 14, to seek injunctive relief

under Minn. Stat. § 214.11 or to issue a cease and desist order under Minn. Stat. § 156.15 based on an alleged violation of this Stipulation and Order.

C. *Requirement of Conference Before Initiating Summary Proceeding.* The Complaint Review Committee may not initiate a summary proceeding under paragraph VI.A unless it first has mailed Licensee a notice of conference that contains all allegations of violations of this Stipulation and Order that are alleged in the summary proceeding, and has provided Licensee an opportunity to respond in writing to the allegations and to appear at a conference with the Complaint Review Committee to discuss and to attempt to resolve the allegations. The Complaint Review Committee may initiate a summary proceeding if Licensee fails to respond in writing to the allegations or fails to appear at the conference after a notice of conference has been mailed to Licensee at Licensee's last known address on file with the Board.

VII.

PETITION FOR UNCONDITIONAL LICENSE

A. *Petition for Unconditional Licensure.* Licensee may petition the Board for an unconditional license at any regularly scheduled Board meeting at least two years from the date of this Order. Any petition shall be in writing and shall include an affidavit from Licensee stating whether he has complied with all of the terms and conditions set forth in part V above and may include any other information that Licensee deems relevant to the Board's consideration of his petition.

B. *Meeting with the Complaint Review Committee.* At the time Licensee submits a petition for an unconditional license in accordance with paragraph VII.A above, the Complaint Review Committee may, in its discretion, schedule a meeting with Licensee to discuss his petition. Licensee shall provide any additional information or documentation that the Complaint

Review Committee reasonably deems necessary to the Board's consideration of Licensee's petition.

C. *Information Submitted to the Board by the Complaint Review Committee.* The Complaint Review Committee may submit any information to the Board that it deems relevant to the Board's consideration of Licensee's petition.

D. *Grant of Petition.* The Board shall grant a petition submitted in accordance with the above paragraphs if it determines that the preponderance of all information received indicates that Licensee:

1. Has fully complied with this Order;
2. Has provided wholly truthful information in his reinstatement petition and has otherwise complied with all reinstatement requirements; and
3. Can be expected to practice veterinary medicine with reasonable skill and safety to patients without conditions on his license.

E. *Consequences of Denial of Petition.* In the event the Board denies a petition for unconditional licensure submitted by Licensee, Licensee shall not again petition the Board for a period of six months from the date of the denial.

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 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 was represented by counsel in this matter.

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 change, 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 in paragraph VIII.F.

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 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 facts and circumstances set forth in this document.

IX.

DATA PRACTICES NOTICE

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

X.

ADDITIONAL INFORMATION

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

(signature on file)

ALBERT L. EDWARDS, D.V.M.
Licensee

Dated: May 17, 2003

ORDER

Upon consideration of the Stipulation and all the files, records and proceedings herein, the terms of the Stipulation are approved, adopted and hereby issued as an Order of this Board effective this twenty-first day of May, 2003.

MINNESOTA BOARD
OF VETERINARY MEDICINE

Signature on file

JOHN KING, D.V.M.
Executive Director

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