

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of the Application of
Edward Foeltz, D.V.M.

STIPULATION AND ORDER

STIPULATION

Edward Foeltz, D.V.M. ("Applicant"), 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. Applicant has applied for 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

A. The Complaint Review Committee that negotiated this Stipulation with Applicant is composed of Joanne Schulman, D.V.M., Board President, Mike Murphy, D.V.M., Board Member and John King, D.V.M., Executive Director of the Board. Susan E. Damon, Assistant Attorney General, represented the Complaint Review Committee in this matter. Applicant was

advised of his right to be represented by legal counsel and knowingly and voluntarily waived that right.

III.

FACTS

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

1. On April 18, 2007, Applicant submitted an application for a license to practice veterinary medicine in Minnesota.

2. Applicant has been licensed to practice veterinary medicine in the State of North Dakota since 2005. On July 7, 2007, applicant and the North Dakota Board of Veterinary Medical Examiners ("North Dakota Board") entered into a Settlement Agreement, a true and correct copy of which is attached hereto as Exhibit A, which resolved a complaint against Respondent arising out of his veterinary practice in North Dakota. Under the Settlement Agreement, Applicant's North Dakota license was placed on probation for a period of one year.

IV.

LAWS

A. Applicant acknowledges that the Settlement Agreement with the North Dakota Board constitutes "adverse action related to licensure in another jurisdiction" in violation of Minn. Stat. § 156.081, subd. 2(5), and is a sufficient basis for the remedy described in section V below.

V.**REMEDY**

A. *Conditional License.* Applicant is granted a license to practice veterinary medicine in the State of Minnesota is conditioned as follows:

1. Applicant shall comply with all requirements of the Settlement Agreement with the North Dakota Board.
2. Applicant shall sign any authorizations requested by the Committee to enable the Committee to obtain information and documentation from the North Dakota Board regarding Applicant's compliance with the Settlement Agreement.

VI.**CONSEQUENCES OF A VIOLATION**

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

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

1. *Response to Allegations in Notice.* At least seven days before the hearing, Applicant shall submit a written response to the allegations set forth in the Notice. If Applicant 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.B.3 below to determine whether the allegations are true and, if so, whether to take additional disciplinary action against

Applicant, which may include any of the forms of disciplinary action set forth in Minn. Stat. § 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 Applicant may present affidavits made on personal knowledge; affidavits of experts; authenticated documents; and records of any licensing Board; 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, records 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 Applicant at least 14 days before the hearing. Applicant 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 Applicant has violated this Stipulation and Order. Applicant 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 Applicant has violated this Stipulation and Order, the Board may require Applicant 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.

C. *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 Minn.

Stat. § 214.103, subd. 6 or to initiate a contested case proceeding under Minn. Stat. ch. 14 based on an alleged violation of this Stipulation and Order.

VII.

PETITION FOR UNCONDITIONAL LICENSE

A. Applicant may petition the Board to issue an unconditional license at any regularly scheduled Board meeting following issuance by the North Dakota Board of an unconditional license. At the time of his petition, Applicant shall have the burden of proving that he has fully complied with this Stipulation and Order and that he is able to practice veterinary medicine safely and in compliance with all statutes and rules governing the profession without being subject to the terms of this Stipulation and Order. Before it makes a recommendation to the Board on Applicant's petition, the Committee, in its discretion, may schedule a conference with Applicant to discuss Applicant's petition and related matters.

VIII.

ADDITIONAL INFORMATION

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

B. Applicant 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 Applicant.

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. Applicant was advised of his right to be represented by counsel in this matter and knowingly and voluntarily waived that right.

E. Applicant has read, understands and agrees to this Stipulation and Order and has voluntarily signed the Stipulation and Order. Applicant 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 Applicant, the Stipulation and Order will take effect and the Order as modified will be issued. If the changes are unacceptable to Applicant or if the Board rejects the Stipulation and Order, it will be of no effect except as specified in paragraph VIII.F.

F. Applicant 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, Applicant 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 Applicant by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or omission of Applicant 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 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 Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation.

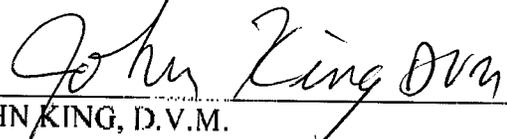

EDWARD FOLTZ, D.V.M.
Applicant

Dated: July 13, 2007.

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 18 day of July, 2007.

MINNESOTA BOARD
OF VETERINARY MEDICINE


JOHN KING, D.V.M.
Executive Director

ORIGINAL

SETTLEMENT AGREEMENT**A. PARTIES**

This Settlement Agreement is made and entered into by the Board of Veterinary Medical Examiners ("Board") and Dr. Edward Foeltz ("Foeltz").

B. RECITALS

The Board is authorized pursuant to N.D.C.C. ch. 43-29 to license and regulate the practice of veterinary medicine.

N.D.C.C. § 43-29-14 authorizes the Board to suspend or revoke any license issued by the Board on the grounds set forth therein.

Foeltz is licensed to practice veterinary medicine in the state of North Dakota by the Board.

The Board determined there is a reasonable basis to believe Foeltz violated N.D.C.C. § 43-29-14(1)(d)(i) and N.D. Admin. Code §§ 87-05-02-01(1) and 87-05-02-02(1), and decided to initiate a disciplinary action.

Foeltz acknowledges he has been informed and understands he may be advised by legal counsel.

Foeltz acknowledges he has been informed and understands he has the right to a hearing and appeal pursuant to N.D.C.C. § 43-29-16 and N.D.C.C. ch. 28-32 prior to any adverse action being taken against his license.

C. AGREEMENT

The Board and Foeltz agree to resolve this matter as follows:

1. Foeltz waives his right to an administrative hearing and appeal.
2. Foeltz's license to practice veterinary medicine will be placed on probation for one year from the date of execution of this Agreement.
3. As a condition of probation, by September 1, 2007, Foeltz will provide the Board with a written protocol for in-room euthanasia with the owner present that meets the minimum standards of practice.
4. As a condition of probation, Foeltz will comply with all laws and rules relating to the practice of veterinary medicine during the period of his probation.

5. Without a hearing or appeal pursuant to N.D.C.C. ch. 28-32, the Board will determine if Foeltz fails to meet any condition of probation. If Foeltz fails to meet any condition of probation, the Board may take further disciplinary action without providing a hearing or appeal pursuant to N.D.C.C. ch. 28-32.

6. There are no covenants, promises, undertakings, or understandings outside this Agreement other than as herein specifically set forth.

7. This Agreement shall be governed by the substantive laws of the State of North Dakota without regards to conflicts of law principles.

Dated this 23 day of June, 2007.

Edward Foeltz DVM
Dr. Edward Foeltz

State of Minnesota

County of Brown

Subscribed and affirmed to before me
this 23 day of June, 2007.



Lori Groebner
Notary Public

Dated this 23 day of July, 2007.

BOARD OF VETERINARY MEDICAL EXAMINERS

Frank E. Walker, DVM
Dr. Dean Christianson Frank E. Walker
President SECRETARY