

**BEFORE THE MINNESOTA  
BOARD OF VETERINARY MEDICINE**

In the Matter of  
Thomas Edwin Koepke, D.V.M.  
License No. 5174

STIPULATION AND ORDER

**STIPULATION**

Thomas Edwin Koepke, D.V.M. ("Licensee"), and the Minnesota Board of Veterinary Medicine Complaint Review Committee ("Complaint Review Committee") agree the above-referenced matter may be resolved without trial of any issue or fact as follows:

**I.**

**JURISDICTION**

1. The Minnesota Board of Veterinary Medicine ("Board") is authorized pursuant to Minnesota Statutes chapter 156 (1996) to license and regulate veterinarians and to take disciplinary action as appropriate.

2. 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**

3. On May 29, 1997, Licensee and his attorney, Joseph G. Beaton, Jr., appeared before the Complaint Review Committee of the Board, composed of Susan Poirot, D.V.M., Board President, Frances 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 issued February 3, 1997. Susan E. Damon, Assistant Attorney General, represented the Complaint Review Committee at the conference.

### III.

#### FACTS

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

a. Licensee's date of birth is February 22, 1946. He graduated from the University of Minnesota School of Veterinary Medicine and was licensed by the Board in 1974.

b. Licensee currently practices veterinary medicine at Mendota Heights Animal Hospital, 1938 Dodd Road, Mendota Heights, MN 55118. Licensee is a sole practitioner and owner of this practice. This practice is limited to spay, castration and declaw surgery, vaccinations, dentistry and minor medical problems.<sup>1</sup>

c. Licensee operates a second veterinary practice, Andrews Ark Ministries, which provides general veterinary services to a select group of clients and provides low-cost services to low-income people. Services through Licensee's Andrews Ark Ministries practice are provided at Mendota Heights Animal Hospital.

d. Licensee currently employs two certified veterinary technicians in his practice. One veterinary technician has been employed by Licensee for approximately nine years. The other veterinary technician has been employed by Licensee for approximately six years.

e. In connection with their employment by Licensee, and with Licensee's knowledge and approval and at his direction, Licensee's veterinary technicians have, on

---

1. Licensee has informed the Board that if a patient experiences sickness or complications from surgery, he provides follow-up and post-surgical treatment free of charge. Licensee has also informed the Board that in the event of a surgical or post-surgical death of a patient, he sends the body to the University of Minnesota for an autopsy at his own expense. Statistical information compiled and provided to the Board by Licensee on the number of surgeries, surgical death rates, and causes of death at Mendota Heights Animal Hospital from 1990-96 is attached hereto as Exhibit A. The Board has made no attempt to verify the statistical information. Licensee has not provided the Board with statistical information about post-surgical infections or complications occurring in his practice.

multiple occasions, engaged in acts which constitute the practice of veterinary medicine, including:

- (1) Performing castration surgeries on both dogs and cats;
- (2) Performing tooth extractions;
- (3) Diagnosing the condition of patients;
- (4) Prescribing medications; and
- (5) Inducing anesthesia on patients without Licensee's direction and supervision.

f. Licensee has, on multiple occasions, failed to provide sterile surgical services. For example, Licensee has reused surgical instruments, including hemostats, scissors and scalpel blades, between patients without resterilization between uses.

g. Licensee has, on multiple occasions, reused syringes between patients without resterilization between uses.

h. Licensee has, on multiple occasions, reused cat litter between patients.

i. Licensee has, on multiple occasions, reused uneaten pet food between patients.

j. Licensee has failed to maintain adequate medical records on numerous patients. Omissions in Licensee's records include instances of failure to record examination findings, failure to make notes in medical records regarding surgeries performed, failure to record information about the amount and frequency of medications prescribed and failure to keep x-rays for three years as required by Board regulations.

#### IV.

#### LAWS

5. Licensee acknowledges that the facts and conduct described in section III above would empower the Board to take disciplinary action against his license, see Minn. Stat. § 156.081, subd. 2 (4), (5), (11), (14) and (15) (1994); Minn. Stat. § 156.081, subd. 2 (4), (11) and (12) (1996); Minn. R. 9100.0200, subps. 4 and 5; Minn. R. 9100.0700, subp. 1.A,

.B., .C and I.; and Minn. R. 9100.0800, subps. 1, 3.C, 4 (1995), and are sufficient grounds for the disciplinary action described in section V below.

## V.

### DISCIPLINARY ACTION

6. Stayed Suspension. Licensee's license to practice veterinary medicine in the State of Minnesota is hereby SUSPENDED. However, the suspension is STAYED conditioned on Licensee's compliance with all of the terms and conditions set forth in subparagraphs V.6.a through V.6.m below:

a. Prohibition Against Practice of Veterinary Medicine by Veterinary Technicians. Licensee is prohibited from directing or allowing any veterinary technician in his employ to engage in the practice of veterinary medicine, including:

- (1) Performing veterinary surgery of any kind, including castrations, declaws and tooth extractions;
- (2) Diagnosing the condition of any patient; or
- (3) Prescribing any medication, including medications such as amoxicillin which are routinely used by Licensee to treat post-surgical infections.

If, while this Order is in effect, state laws are amended to authorize veterinary technicians to engage in any of the above practices, any of the above terms which are inconsistent with such amended state laws shall, without further Order of the Board, become null and void.

b. Supervision of Veterinary Technicians During Induction of Anesthesia. When anesthesia is induced by a veterinary technician, Licensee must be present in the surgical preparation area and must be in charge of the induction of anesthesia. If, while this Order is in effect, state laws are amended to authorize veterinary technicians to induce anesthesia without the direction and supervision of a licensed veterinarian, this term shall, without further Order of the Board, become null and void.

c. Sterile Surgery. Licensee shall use a separate sterile surgical pack for every animal under all circumstances. Licensee shall not reuse any scalpel blade without resterilization prior to reuse.

d. No Reuse of Needles/Syringes. Licensee shall use a sterile needle and a sterile syringe for every injection.

d. No Reuse of Cat Litter. Licensee is prohibited from reusing cat litter between patients.

e. No Reuse of Uneaten Pet Food. Licensee is prohibited from reusing uneaten pet food between patients.

f. Washing of Food/Water Dishes and Litter Pans. All food and water dishes and litter pans must be thoroughly washed between patients. In the alternative, Licensee may use disposable food and water dishes and litter boxes.

g. Record Keeping. Licensee shall maintain records on all patients in accordance with the record keeping requirements set forth in Minn. R. 9100.0800, subp. 4. Records on surgical patients must specifically include findings from the pre-surgical examination. Further, each patient's surgical record must either contain notes from the individual surgery or Licensee must prepare a book of his surgical protocol and note in each patient's surgical record that the standard protocol was followed.

h. Client Education. Where a patient is diagnosed with cryptorchidism, Licensee must provide education to the client on the effects of unresolved cryptorchidism, and must note in the patient record that such client education was provided.

j. Reading of Texts on Aseptic Surgery. Within six months of the date of the Order herein, Licensee shall read a minimum of 10 current articles or sections of current texts on aseptic surgery and shall provide the Board with an affidavit listing the articles or sections of texts that Licensee has read in compliance with this provision.

k. Prohibition on Use of Alcohol During Working Hours. Licensee is prohibited from consuming any alcohol at any time during the day until after his working hours.

l. Inspection Authority of Board. For a period of five years following the effective date of the Order herein, Licensee shall permit a Board member, a member of the Board's staff, including the Board's Executive Director, or a member of the Attorney General's staff to enter and inspect Licensee's clinic, office and records to determine Licensee's compliance with the terms and conditions set forth herein. Licensee shall allow the inspector to remove from the premises for review and copying, medical records made and maintained by Licensee for the purpose of determining Licensee's compliance with paragraph V.6.g. herein. Entry and inspection under this part 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 within the five-year period as the Board or its designee deems necessary. At the time of entry and inspection, the inspector shall provide Licensee or Licensee's employee or agent with proper identification. Nothing herein shall prohibit the Board from using evidence or records obtained pursuant to this paragraph for any purpose in connection with any disciplinary action against Licensee, including any action which does not arise out of alleged violations of this Order. Nothing herein shall be construed to limit or otherwise be in derogation of the Board's inspection authority under Minn. Stat. § 156.121 or the Board's authority under Minn. Stat. § 214.10, subd. 3.

m. Administrative Penalty. Licensee shall pay the Board an administrative penalty of \$10,000, payable over two years at six percent interest. Licensee shall make payments no later than in accordance with the monthly amortization schedule attached hereto as Exhibit B. Payments shall be by certified funds, cashier's check or money order payable to the Minnesota Board of Veterinary Medicine. Licensee may pre-pay the \$10,000 or any part thereof at any time without penalty.

## VI.

### CONSEQUENCES OF NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

7. If Licensee fails to comply with or violates any term of this Stipulation and Order, the Complaint Review Committee may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

a. The Complaint Review Committee shall schedule a hearing before the Board. At least 30 days prior to 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 (7) 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 shall be deemed admitted.

b. The Complaint Review Committee, in its discretion, may schedule a conference with the Licensee prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

c. Prior to the hearing before the Board, the Complaint Review Committee and Licensee may submit affidavits made on personal knowledge, authenticated documents and written argument in support of their positions. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits and documents submitted prior to the hearing and this Stipulation and Order. The Complaint Review Committee shall have the burden of proving by a preponderance of the evidence that a violation has occurred. 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 additional discipline. Licensee waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

d. Licensee's correction of a violation prior to the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Complaint Review Committee not to seek discipline when it first learns of a violation will not waive the Complaint Review Committee's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while Licensee's license is on conditional status.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board will dismiss the allegations. If a violation is proved, the Board may revoke the stay of suspension provided for herein and/or may impose additional discipline, including additional conditions or limitations on Licensee's practice, revocation of Licensee's license or imposition of an additional administrative penalty. See Minn. Stat. § 156.127 (1996). Nothing herein shall be construed as a waiver by Licensee of his right to judicial review of the Board's final decision.

f. Nothing herein shall limit the Complaint Review Committee's or the Board's right to temporarily suspend Licensee's license pursuant to Minnesota Statutes section 156.126 (1996) based on a violation of this Stipulation and Order or based on conduct of Licensee not specifically referred to herein.

## VII.

### REMOVAL OF CONDITIONS

8. Licensee may petition to have the above conditions removed at any regularly-scheduled Board meeting at least five years after the date of this Order. At the time of his petition, Licensee shall have the burden of proving by clear and convincing evidence that he has fully complied with this Order and that he is able to practice veterinary medicine safely without being subject to the terms of this Order.

## VIII.

### ADDITIONAL INFORMATION

9. Licensee waives the 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.

10. 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.

11. 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.

12. Licensee has read, understands, and agrees to this Stipulation and Order and has voluntarily signed the Stipulation and Order after consultation with his attorney. Licensee is aware 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 the Board rejects the Stipulation and Order, it will be of no effect except as specified in paragraph VIII.13.

13. 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.

14. 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

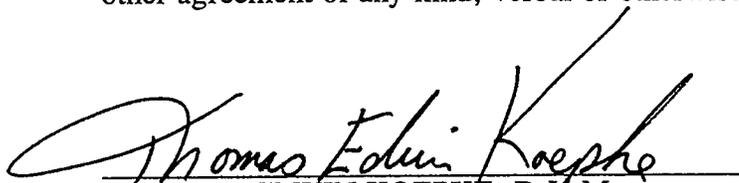
any act, conduct, or omission of Licensee which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

IX.

DATA PRACTICES NOTICES

15. This Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subd. 4 (1996). While this Stipulation and Order is in effect, information obtained by the Board pursuant to this Order is considered active investigative data on a licensed health professional, and as such, is classified as confidential data pursuant to Minnesota Statutes section 13.41, subd. 3 (1996).

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

  
THOMAS EDWIN KOEPKE, D.V.M.  
Licensee

Dated: 7/22/97, 1997

**ORDER**

Upon consideration of the Stipulation and all the files, records and proceedings herein, the terms of the Stipulation are approved and adopted, the recommended disciplinary action set forth in the Stipulation is hereby issued as an Order of this Board, and Licensee's license is SUSPENDED effective this 3 day of Sept, 1997, and said suspension is STAYED in accordance with the terms and conditions set forth herein.

MINNESOTA BOARD

OF VETERINARY MEDICINE



ROLAND C. OLSON  
Executive Director

SED.jsn.vetso.ab6

- 1990: 5,218 Surgeries. 5 deaths of cats. No dogs.
- 1 - hemophilic
  - 1 - pre-existing liver disease
  - 1 - anesthetic death of older pet
  - 1 - pre-existing internal injury due to a fall from second floor balcony three weeks before surgery
  - 1 - feline distemper (cat not vaccinated)
- 1991: 5,482 Surgeries. 3 deaths of cats. No dogs.
- 1 - dwarf female cat spay (2/8) could not tolerate spay surgery stress and died two weeks after surgery
  - 2 - feline distemper (cats not vaccinated)
- 1992: 6,044 Surgeries. 3 deaths of cats. No dogs.
- 1 - pre-existing diaphragmatic hernia
  - 1 - 6 week pregnant cat died immediately after surgery from either shock or embolism
  - 1 - feline infectious peritonitis (pre-existing viral disease)
- 1993: 5,376 Surgeries. 3 deaths of cats. No dogs.
- 1 - feline distemper (cat not vaccinated)
  - 1 - feline leukemia (pre-existing disease)
  - 1 - feline infectious peritonitis
- 1994: 4,864 Surgeries. 3 deaths of cats. 2 dogs.
- 2 - dogs. Both young female dogs died during induction of anesthesia. Autopsy showed no medical problem. Strangely both dogs died during a three day period. Bad batch of anesthetic agent or very poor judgment on part of Dr. Tom. Cases settled out of court as per consent agreement.
  - 1 - cat with birth defect not found on physical exam.
  - 1 - cat died 10 days after spay surgery. Autopsy revealed intestinal herniation in mesenteric tissue. Unclear how this related to spay surgery.
  - 1 - cat castration died 5 days after surgery. Owner would not allow autopsy. Unclear history.
- 1995: 3,853 Surgeries. No deaths.
- 1996: 3,249 Surgeries. No deaths.