

**BEFORE THE MINNESOTA  
BOARD OF VETERINARY MEDICINE**

In the Matter of  
Kathryn E. Marr, D.V.M.  
License No. 00286

**FINDINGS OF FACT,  
CONCLUSIONS,  
AND FINAL ORDER**

The above-entitled matter came on for hearing at a regularly scheduled meeting of the Minnesota Board of Veterinary Medicine ("Board") on May 11, 2010, convened at 2829 University Avenue S.E., Fourth Floor, Conference Room A, Minneapolis, Minnesota 55414. The Board conducted a hearing pursuant to the procedure set forth in paragraph L.1. of the Amended Stipulation and Order ("February 2010 Order") issued by the Board to Kathryn E. Marr, D.V.M. ("Respondent"), on February 9, 2010. At the hearing, the Board Complaint Review Committee presented by affidavit evidence of Respondent's violations of the February 2010 Order. Respondent appeared and presented oral argument on her own behalf. Daphne A. Lundstrom, Assistant Attorney General, appeared and presented oral argument on behalf of the Board Complaint Review Committee. Board members Joanne Schulman, D.V.M., Sharon Todoroff, and John King, D.V.M., Executive Director of the Board, did not participate in deliberations and did not vote in the matter. Nathan W. Hart, Assistant Attorney General, was present as legal advisor to the Board.

**FINDINGS OF FACT**

The Board has reviewed the record of this proceeding and hereby issues the following Findings of Fact:

1. The Board is authorized pursuant to Minnesota Statutes chapter 156 to license, regulate, and discipline persons who apply for, petition, or hold licenses as veterinarians and is

further authorized pursuant to Minnesota Statutes sections 214.10 and 214.103 to review complaints against veterinarians, to refer such complaints to the Attorney General's Office, and to initiate appropriate disciplinary action.

2. Respondent agreed to and signed the February 2010 Order. In paragraph L. of the February 2010 Order, Respondent expressly acknowledged and agreed to several procedures the Board Complaint Review Committee may use to resolve alleged noncompliance with or violation of the February 2010 Order, Minnesota Statutes section 148.262, or Minnesota Statutes chapter 14. The February 2010 Order remained in full force and effect at the time the conduct described in paragraph 5 below occurred.

3. Respondent expressly acknowledged and agreed in paragraph L. of the February 2010 Order that if Respondent violates the February 2010 Order, the Board Complaint Review Committee may seek additional disciplinary action.

4. Respondent expressly acknowledged and agreed in paragraph L.1. of the February 2010 Order that in the event the Board received evidence Respondent violated the terms of the February 2010 Order, Minnesota Statutes section 148.262, or Minnesota Statutes chapter 14, she would be notified of such allegations in writing and, following the opportunity to contest the allegations, the Board may impose additional disciplinary action against Respondent's license.

5. The Board received information Respondent violated the terms of the February 2010 Order and engaged in acts or omissions which would be a violation of Minnesota Statutes section 148.262 as follows:

a. On December 1, 2009, Respondent returned to clinical practice after completing primary chemical dependency treatment.

b. On February 2, 2010, Respondent was prescribed cough syrup with codeine.

c. On February 10, 2010, Respondent called her Health Professionals Services Program (“HPSP”) Case Manager and reported her relapse with opiates. Respondent stated she initially took the cough syrup as prescribed but began taking double doses and her cravings increased. Respondent admitted that on February 8, 2010, she broke into the lock box at her clinic and withdrew hydromorphone, which she then injected. Respondent agreed to refrain from practice and obtain a chemical health assessment as soon as possible.

d. On February 16, 2010, the HPSP notified the Board of Respondent’s relapse and forwarded her file to the Board.

6. On March 30, 2010, Respondent was served with a Notice of Removal of Stay of Suspension, Imposition of Suspension, and Hearing (“Notice”) and Order of Removal of Stay of Suspension by first-class mail. The Notice informed Respondent of the alleged violations and of the date, time, and place of the hearing. The Notice also informed Respondent she was required to submit a response to the allegations in the Notice within ten days after the Notice was mailed. Respondent did not submit a response.

7. The Board Complaint Review Committee had probable cause to remove the stay of suspension.

### **CONCLUSIONS**

Based upon the foregoing Findings of Fact, the Board makes the following Conclusions:

1. The Board has jurisdiction in this matter pursuant to Minnesota Statutes sections 148.262, 148.262, subdivisions 2 and 3, and 156.081, subdivision 2(12).

2. The Board Complaint Review Committee gave proper notice of the alleged violations to Respondent, pursuant to paragraph L.1. of the February 2010 Order.

3. The Board Complaint Review Committee has the burden of establishing the statutory violations charged by a preponderance of the evidence.

4. The Board Complaint Review Committee has proved by a preponderance of the evidence that Respondent has violated Minnesota Statutes section 156.081, subdivision 2(11) and (12), Minn. R. 9100.0700, and the February 2010 Order.

5. As a result of Respondent's failure to respond to the Notice, the Board Complaint Review Committee has met its burden of proof.

6. As a result of the violations set forth above and pursuant to the terms of the February 2010 Order, the Board has the authority to impose additional disciplinary action against Respondent's license to practice veterinary medicine.

### **ORDER**

Based on the foregoing Findings of Fact and Conclusions, the Board issues the following Order:

1. NOW, THEREFORE, IT IS HEREBY ORDERED that the Amended Stipulation and Order issued to Respondent on February 9, 2010, is hereby **RESCINDED** and shall have no future force or effect.

2. IT IS FURTHER ORDERED that the license of Respondent as a veterinarian in the State of Minnesota is **SUSPENDED** immediately for an indefinite period of time.

3. IT IS FURTHER ORDERED that during the period of suspension Respondent shall not engage in any conduct that constitutes the practice of veterinary medicine as defined in Minnesota Statutes chapter 14 and shall not imply to any person by words or conduct that Respondent is authorized to practice veterinary medicine in the State of Minnesota.

4. IT IS FURTHER ORDERED that Respondent surrender to the Board her license. Respondent shall personally deliver or mail all copies of her Minnesota veterinary license to the Minnesota Board of Veterinary Medicine, c/o John King, D.V.M., Executive Director, Suite 540,

2829 University Avenue S.E., Minneapolis, Minnesota 55414, within ten days of the date of this Order.

5. IT IS FURTHER ORDERED that Respondent shall continue to participate in the HPSP and remain compliant with her HPSP Participation Agreement and Monitoring Plan.

6. IT IS FURTHER ORDERED that, upon written notification to the Board from HPSP that it is lifting its “No Practice” agreement with Respondent, the Complaint Review Committee may, by its own order, impose a stay of the suspension of Respondent’s license, and Respondent may resume the practice of veterinary medicine. The suspension shall remain stayed, so long as Respondent complies with the following requirements:

a. HPSP Compliance. Respondent shall comply with and fulfill all terms and conditions of her HPSP Participation Agreement and Monitoring Plan and any amendments or modifications thereto, as determined by the HPSP including, but not limited to, all treatment and aftercare recommendations, monitoring requirements, and practice restrictions imposed by the HPSP. Noncompliance by Respondent with any term or condition of the HPSP Participation Agreement or Monitoring Plan or discharge by the HPSP before Respondent’s successful completion of the Participation Agreement and Monitoring Plan shall constitute a violation of this Order.

b. Responsibility for Costs. Respondent is responsible for all costs associated with chemical dependency treatment, aftercare, alcohol/drug screens, and any other requirements of this Order or of the HPSP Participation Agreement and Monitoring Plan.

c. Abstinence From Mood-Altering Chemicals. Respondent shall completely abstain from all mood-altering chemicals, including alcohol, unless expressly prescribed in writing by a physician, dentist, or other authorized health care professional who is providing care and treatment to Respondent. Within ten days of when a physician, dentist, or other authorized

health care professional prescribes controlled substances for Respondent, Respondent must inform the HPSP in writing of the prescription and the condition being treated.

d. Waivers/Authorizations for Release. At any time while this Order is in effect and at the request of the Committee or its designee, Respondent shall complete and sign any waiver or authorization for the release of medical, chemical dependency, mental health, or other records in order to allow the Committee or its designee to discuss Respondent's case with, to release records and information to, and to obtain written evaluations and reports and copies of all of Respondent's medical, chemical dependency, mental health, or other records from any treatment facility, organization, physician, therapist, chemical dependency treatment provider, or other person from whom Respondent has sought or obtained treatment, support, or assistance.

7. IT IS FURTHER ORDERED that Respondent's violation of this Order shall constitute violation of a Board order for purposes of Minnesota Statutes section 156.081, subdivision 2(12), and provide grounds for further disciplinary action.

8. IT IS FURTHER ORDERED that if the Committee has probable cause to believe Respondent has failed to comply with or has violated any of the requirements for staying the suspension as outlined in paragraph 6 above, the Committee may remove the stayed suspension pursuant to the procedures outlined in paragraph 8.b. below, with the following additions and exceptions:

a. If the HPSP discharges Respondent from the program for any reason other than Respondent's successful completion of the terms of the Participation Agreement, there will be a presumption of a preponderance of the evidence that Respondent has failed to comply with the requirement(s) for staying the suspension.

b. The removal of the stayed suspension shall take effect upon service of an Order of Removal of Stayed Suspension ("Order of Removal"). Respondent agrees that the

Committee is authorized to issue an Order of Removal, which shall remain in effect and shall have the full force and effect of an order of the Board until the Board makes a final determination pursuant to the procedures outlined in paragraph L.5. below or until the complaint is dismissed and the order is rescinded by the Committee. The Order of Removal shall confirm the Committee has probable cause to believe Respondent has failed to comply with or has violated one or more of the requirements for staying the suspension of Respondent's license. Respondent further agrees an Order of Removal issued pursuant to this paragraph shall be deemed a public document under the Minnesota Government Data Practices Act. Respondent waives any right to a hearing before removal of the stayed suspension.

c. The Committee shall schedule the hearing pursuant to paragraph 9.a. below to be held within 60 days of service of the Order of Removal.

9. If Respondent fails to comply with or violates this Order, the 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 Committee shall schedule a hearing before the Board. At least 20 days before the hearing, the Committee shall mail Respondent a notice of the violation(s) alleged by the Committee. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Respondent shall submit a written response to the allegations. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Committee, in its discretion, may schedule a conference with Respondent 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 Committee and Respondent may submit affidavits and written argument in support of their positions. At the hearing, the Committee and Respondent may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Order. Unless stated otherwise in this Order, the Committee shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Respondent has failed to submit a timely response to the allegations, Respondent may not contest the allegations, but may present argument concerning the appropriateness of additional discipline.

d. 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 impose additional discipline, including additional requirements for the stayed suspension, removal of the stayed suspension, an additional period of suspension, or revocation of Respondent's license.

e. Nothing herein shall limit the Committee's or the Board's right to temporarily suspend Respondent's license pursuant to Minnesota Statutes section 156.126 based on conduct by Respondent not specifically referred to herein.

10. IT IS FURTHER ORDERED that Respondent may petition the Board for an unconditional license at any regularly scheduled Board meeting following discharge from the HPSP after successful completion of the Participation Agreement. Respondent's petition will be granted, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Respondent to demonstrate by a preponderance of the evidence that Respondent is capable of conducting herself in a fit and competent manner in the practice of veterinary medicine, is successfully participating in a program of chemical dependency

rehabilitation, and has been sober and free from mood-altering chemicals, including alcohol, during the time Respondent was subject to the Participation Agreement. The Board may, at any regularly scheduled meeting following Respondent's petition, take any of the following actions:

- a. Issue to Respondent an unconditional license to practice veterinary medicine.
- b. Issue to Respondent a license to practice veterinary medicine with limitations placed upon the scope of Respondent's practice and/or conditional upon further reports to the Board.
- c. Continue the conditions and/or restrictions on Respondent's license upon Respondent's failure to meet the burden of proof.

Dated: May 20, 2010

MINNESOTA BOARD  
OF VETERINARY MEDICINE



JOHN LAWRENCE, D.V.M.  
President

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