

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
Christine Napierala, D.V.M.
License No. 08089

STIPULATION AND ORDER

STIPULATION

Christine Napierala, 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.

COMPLAINT REVIEW COMMITTEE

A. The Complaint Review Committee, which negotiated this Stipulation and Order with Licensee, is composed of Frances Smith, D.V.M., Board President, Meg Glattly, D.V.M., Board Member, and Roland C. Olson, D.V.M., Executive Director of the Board. Susan E. Damon, Assistant Attorney General, represented the Complaint Review Committee. Licensee was advised of her right to be represented by counsel in this matter, and knowingly and voluntarily waived that right.

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 June 17, 1989.
2. On May 7, 1997, the Board suspended Licensee's license to practice veterinary medicine in the State of Minnesota under the authority of Minn. R. 9100.0500, subps. 5 and 6, based on Licensee's nonpayment of her renewal fee for the license period March 1, 1997 through February 28, 1999 and a late fee.
3. By letter dated May 13, 1997, the Board's Executive Director notified Licensee of the May 7, 1997 suspension, and informed her that the suspended status of her license would be removed only upon payment of a reinstatement fee plus renewal fees and late penalty fees for each year or part of a year that the license was not renewed. The May 13, 1997 letter notifying Licensee of the suspension was sent by certified mail, return receipt requested. On May 14, 1997, Licensee signed the certified mail return receipt for the May 13, 1997 letter. Licensee's license has not been reinstated since it was suspended on May 7, 1997.
4. Following the suspension of Licensee's license and following Licensee's receipt of the May 13, 1997 letter notifying her of the suspension, Licensee continued to practice veterinary medicine in the State of Minnesota.
5. Following the suspension of Licensee's license and following Licensee's receipt of the May 13, 1997 letter notifying her of the suspension, advertisements listing Licensee as a veterinarian were placed in the January 1998/1999 US West Dex Yellow Pages for Minneapolis and Surrounding Area and in the July 1998/1999 US West Dex Yellow Pages for St. Paul and Surrounding Area. The advertisements were misleading, as a reader of the

advertisements would reasonably believe that Licensee held an active license to practice veterinary medicine in the State of Minnesota.

6. The Complaint Review Committee of the Board commenced an investigation of Licensee relating to the allegations that Licensee had practiced and advertised after her license was suspended. In connection with the investigation, the Committee issued a Notice of Conference with Board Complaint Review Committee which scheduled a disciplinary conference for 11:30 a.m. on May 4, 1999. The Notice of Conference listed allegations against Licensee and contained a statement informing Licensee that Minnesota Statutes section 156.123 required her to appear at the conference. The Notice of Conference further stated that the Complaint Review Committee requested a written response to the allegations no later than seven days before the conference and requested that Licensee bring to the conference certain patient medical records relating to the investigation. The Notice of Conference was served on Licensee by certified United States mail on April 13, 1999. On April 15, 1999, Licensee signed the certified mail return receipt for the Notice of Conference. Licensee did not submit the requested written response to the allegations, did not appear at the May 4, 1999 conference and did not provide the Complaint Review Committee with any of the requested medical records.

7. On or about May 26, 1999, an investigator served a Board subpoena duces tecum on Licensee for patient medical records and appointment books in Licensee's possession relating to the investigation. The investigator asked Licensee to provide the requested records and appointment books by June 4, 1999. Licensee did not object to the subpoena. However, Licensee failed either to produce any of the medical records or appointment books sought by the subpoena or to inform the investigators that the records did not exist.

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(8) and

(12) and 156.123; and Minn. R. 9100.0700, subd. 1.G. and agrees to the disciplinary action set forth below.

V.

DISCIPLINARY ACTION

A. The Board of Veterinary Medicine hereby takes the following disciplinary action against Licensee:

1. Licensee is reprimanded.
2. Licensee shall pay to the Board a \$1,500 administrative penalty, payment of which is due 30 days from the date of this Order.
3. Before the suspended status of Licensee's license may be removed, Licensee shall comply with the following:
 - a. Licensee shall pay all renewal fees for the periods March 1, 1997 through February 28, 1999 and March 1, 1999 through February 28, 2001, the total of which is \$400;
 - b. Licensee shall pay all late renewal fees for the periods March 1, 1997 through February 28, 1999 and March 1, 1999 through February 28, 2001, the total of which is \$200;
 - c. Licensee shall pay a reinstatement fee of \$50;
 - d. Licensee shall certify to the Board her completion of 60 hours of continuing education for the past two renewal periods; and
 - e. If Licensee does not comply with the requirements of V.A.3.a-d. by May 6, 2002, Licensee shall comply with all requirements of Minn. Stat. § 156.071 for relicensure.
4. In addition to complying with the requirements of V.A.3. above, before Licensee may resume any actual practice of veterinary medicine, Licensee shall, at her own expense, undergo an evaluation by a licensed health care professional approved in advance by the Complaint Review Committee for the purpose of determining whether Licensee has any

condition which may impair her ability to safely practice veterinary medicine and, if so, whether any restrictions or conditions on Licensee's practice would be appropriate. The scope of the evaluation shall be determined by the Complaint Review Committee in consultation with the licensed health care professional. Licensee shall comply with any recommendations for treatment or other actions made by the licensed health care professional and shall sign any necessary waivers or releases to enable the licensed health care professional and the Complaint Review Committee to exchange private or confidential information.

5. Commencing upon removal of the suspended status of Licensee's license in accordance with paragraph V.A.3. above, Licensee shall be on probation with the Board for a period of one year or until she completes any treatment or other recommendations made by the licensed health care professional referenced in paragraph V.A.4. above, whichever is later.

VI.

CONSEQUENCES OF A VIOLATION OF THIS STIPULATION AND ORDER

A. Summary Proceeding Before the Board. If the Complaint Review Committee determines that Licensee has violated any term or condition of this Stipulation and Order, Minn. Stat. ch. 156 or Minn. R. ch. 9100, 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 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 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 and verified documents 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 14 days before the hearing. Licensee shall file with the Board all evidence she intends to present at the hearing and shall serve a copy on the Complaint Review Committee at least seven 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, Minn. Stat. ch. 156 or Minn. R. ch. 9100 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 or to seek injunctive relief under Minn. Stat. § 214.11 based on an alleged violation of this Stipulation and Order, Minn. Stat. ch. 156 or Minn. R. ch. 9100.

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 one year after removal of the suspended status of Licensee's license in accordance with paragraph V.A.3. above or following Licensee's successful completion of treatment or other recommendations made by the licensed health care professional referenced in paragraph V.A.4. above, whichever is later. Any petition shall be in writing and shall include an affidavit from Licensee stating whether she 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 her 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 her 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 her reinstatement petition and has otherwise complied with all reinstatement requirements; and
3. Can be expected to practice veterinary medicine in compliance with Minn. Stat. ch. 156 and Minn. R. ch. 9100 without conditions on her 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 has been advised of her right to be represented by counsel in this matter and has knowingly and voluntarily waived that right.

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.

Christine Napierala

CHRISTINE NAPIERALA, D.V.M.

Licensee

Dated: 12/23/, 1999.

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 _____ day of _____, 2000.

**MINNESOTA BOARD
OF VETERINARY MEDICINE**

ROLAND C. OLSON
Executive Director

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