

BEFORE THE MINNESOTA  
BOARD OF VETERINARY MEDICINE

In the Matter of  
Mohammed Shahidullah, D.V.M.  
License No. 7978

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

On October 3, 1995, the Complaint Committee of the Minnesota Board of Veterinary Medicine ("Board" served a Notice of and Order for Hearing ("Notice of Hearing") upon Mohammed Shahidullah ("Respondent") at 1132 Central Avenue West, St. Paul, Minnesota 55104.

The Notice of Hearing served on Respondent scheduled a prehearing conference for October 25, 1995. After an attempt to reach a mediated settlement, there were several continuances of the hearing until the first hearing date on June 21, 1996. On July 8, 1996, the Complaint Committee served an Amended Notice and Order for Hearing on Respondent. There were eight additional hearing days beginning on June 24, 1996 and continuing through the final day on July 18, 1996.

On October 14, 1996, Administrative Law Judge Janice K. Frankman issued Findings of Fact, Conclusions of Law, and Recommendation in the above-entitled matter ("report"). A redacted copy of the report is attached hereto.

The Board convened to consider the matter on January 15, 1997 at 2:25 p.m., at University Park Plaza, Meeting Room, Main Floor, 2829 University Avenue SE, Minneapolis, Minnesota, 55414. Board members Dr. Joseph Glenn and Dr. Susan Poirot, who were members of the Complaint Committee, did not participate in deliberations and did not vote in the matter. In addition, Executive Director Roland C. Olson did not participate in deliberations and did not vote in the matter. Ann M. Offermann, Assistant Attorney General, appeared and presented oral argument for the Board Complaint Committee. Dr. Shahidullah

appeared pro se and presented oral argument. Natalie E. Hudson, Assistant Attorney General, was present as the legal advisor to the Board.

### FINDINGS OF FACT

The Board has reviewed the record of this proceeding and hereby accepts the October 14, 1996 report of Administrative Law Judge Janice K. Frankman and accordingly adopts and incorporates by reference the Findings of Fact therein.

### CONCLUSIONS

The Board accepts the October 14, 1996 report of Administrative Law Judge Janice K. Frankman and accordingly adopts and incorporates by reference the Conclusions of Law therein.

### ORDER

Based upon the foregoing Findings of Fact, Conclusions and Recommendation of the Administrative Law Judge, the Board issues the following Order:

1. NOW, THEREFORE, IT IS HEREBY ORDERED that effective immediately, Respondent's license to practice veterinary medicine in Minnesota is **REVOKED**. Respondent shall not practice veterinary medicine in any manner or capacity in Minnesota; nor shall he advertise or in any way represent himself or identify himself as being licensed to practice veterinary medicine in Minnesota.

2. IT IS FURTHER ORDERED that Respondent shall surrender to the Board his current veterinary medicine license. Surrender shall be accomplished by mailing the license by certified mail to the Minnesota Board of Veterinary Medicine, c/o Roland C. Olson, Executive Director, Suite 540, 2829 University Avenue SE, Minneapolis, Minnesota, 55414, within five days after receipt by Respondent of this Order.

3. IT IS FURTHER ORDERED that Respondent may petition for reinstatement of his license after five (5) years from the date of this Order and upon providing written evidence of his compliance with the following terms and conditions:

a) completion of the continuing education requirements of the Board for each of the years preceding his petition for reinstatement;

b) demonstrable proof that he is capable of conducting himself in a fit and competent manner in the practice of veterinary medicine, and specifically that he has successfully addressed the causes of the deficiencies in his practice that resulted in this Order.

"Demonstrable proof" may include, but is not limited to, letters of recommendation;

c) successful completion of the National Board Examination;

d) successful completion of the Clinical Competency Test; and

e) successful completion of the Minnesota Jurisprudence Examination administered by the Board.

4. IT IS FURTHER ORDERED that Respondent shall meet all licensure requirements in effect at the time of his application, including but not limited to, completing the appropriate application, and payment of the requisite fees.

5. IT IS FURTHER ORDERED that when Respondent petitions for reinstatement of his license, he shall meet with a Board Complaint Committee who shall review Respondent's petition and the written evidence or documents he is required to submit pursuant to paragraphs 3 and 4 of this Order and any other documents he intends to submit in support of his petition for reinstatement of his license. The Complaint Committee shall make a recommendation to the full Board.

6. IS FURTHER ORDERED that any petition for reinstatement submitted in accordance with paragraphs 3-5 of this Order shall be considered by the Board no later than its first regular meeting after the petition's receipt, provided that the petition and all supporting documents are received at least twenty-one (21) days before the meeting. The burden of proof shall be upon Respondent to demonstrate that he is capable of conducting himself in a fit and competent manner in the practice of veterinary medicine. The Board may, at any regularly scheduled meeting following Respondent's petition for reinstatement of his license and

Respondent's meeting with a Board Complaint Committee as specified in paragraph 5 of this Order, take any of the following actions:

a) Grant Respondent a license subject to a limitation placed upon the scope of his practice as identified in paragraph 7 below;

b) Deny Respondent's petition for a license based upon his failure to meet his burden of proof or otherwise comply with the terms of this Order.

7. IT IS FURTHER ORDERED, that if Respondent successfully complies with the requirements set forth in paragraphs 3-5 of this Order, and the Board grants Respondent a license to practice veterinary medicine, his license shall be subject to a **LIMITATION**. The limitation is as follows: Respondent shall work under the direct supervision of a licensed veterinarian for one year from the date of the Board's Order issuing Respondent a license. Respondent shall provide the Board with written verification of the direct supervision, including the name, address and telephone number of the licensed veterinarian providing the supervision.

Dated: January 31, 1997

MINNESOTA BOARD OF  
VETERINARY MEDICINE

Lynn M. Green  
LYNN GREEN  
Vice-President

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

## FOR THE MINNESOTA BOARD OF VETERINARY MEDICINE

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In the Matter of  
Mohammed Shahidullah, DVM;  
License No. 7978

**FINDINGS OF FACT,**  
**CONCLUSIONS OF LAW**  
**AND RECOMMENDATION**

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The above-captioned matter came on for hearing before Administrative Law Judge Janice K. Frankman on June 21, 1996 at the Ramsey County Correctional Facility, Century Avenue, St. Paul, Minnesota. There were eight additional hearing days beginning on June 24, 1996 and continuing through the final day on July 18, 1996. The hearing was held on those days in Room 224, State Capitol Building, St. Paul, Minnesota. The record closed on September 13, 1996, the date that post-hearing briefing was received from the parties.

Ann M. Offermann, Assistant Attorney General, 525 Park Street, Suite 500, St. Paul, Minnesota, 55103, appeared on behalf of the Minnesota Board of Veterinary Medicine. Mohammed Shahidullah, Licensee, 1132 Central Avenue West, St. Paul, Minnesota, 55104, and 328 Lexington Parkway North, Apartment #6, St. Paul, Minnesota, 55104, appeared on his own behalf, except for a brief appearance by Kay M. Thompson, Snelling, Christensen & Laue, P.A., Suite 400, 5101 Vernon Avenue South, Minneapolis, Minnesota, 55436, on July 12, 1996. By letter dated July 15, 1996, Ms. Thompson advised Ms. Offermann, and the Judge by a copy of her correspondence, that she would not appear at the final hearing day on July 18, 1996, nor would she participate in the post-hearing briefing. She indicated that she had been "...retained...to facilitate a negotiation and settlement with the Complaint Review Committee if that is at all possible."

NOTICE IS HEREBY GIVEN that, pursuant to Minn. Stat. §14.61, the final decision of the Board shall not be made until this report has been made available to the parties to the proceeding for at least ten (10) days, and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the Board. Exceptions to this report, if any, shall be filed with the Board at Suite 102, 2700 University Avenue West, St. Paul, Minnesota, 55114-1055. Pursuant to Minn. Stat. §214.10, Subd. 2, a Board member who was consulted during the course of an investigation may participate at the hearing, but may not vote on any matter pertaining to the case.

## STATEMENT OF ISSUES

1. Whether there is cause, pursuant to Minn. Stat. §156.081, to take action against the Licensee's license to practice veterinary medicine.
2. Whether and to what extent the Licensee has violated the provisions of Minn. Rules 9100.0100 through 9100.0800, which apply to veterinarians' licensure and practice.

Based upon the record, all of the proceedings, and the closing argument herein, the Administrative Law Judge makes the following:

## FINDINGS OF FACT

1. Mohammed Shahidullah has been licensed to practice veterinary medicine in the State of Minnesota since 1978. He lists two residential addresses in St. Paul. He was born, raised and educated in Bangladesh. He came to the United States after completing his formal education in 1969.
2. Dr. Shahidullah initially practiced in New Ulm, Minnesota with Dr. Dr. suggested to Dr. Shahidullah that he take a different name for practice which was easier to pronounce and apparently which Dr. believed would minimize anticipated adverse impact from potential clients leery of doing business with a Muslim. Since that time in 1978, Dr. Shahidullah has been known to his clients as "Dr. Sam" or Sam Ulland. He has not had his name legally changed. His license continues to issue in the name of Mohammed Shahidullah. See, Shahidullah testimony.
3. A Notice of and Order for Hearing dated October 3, 1995 was issued notifying Dr. Shahidullah that the Minnesota Board of Veterinary Medicine sought to take action against his license. The original date for the hearing was set for October 25, 1995. After an attempt to reach a mediated settlement, there were several continuances of the hearing until the first hearing date on June 21, 1996. An Amended Notice of and Order for Hearing dated July 8, 1996 deletes several of the original allegations and adds the allegation that Dr. Shahidullah had failed to cooperate with the Board by failing to produce certain requested patient records.
4. The Amended Notice of and Order for Hearing includes allegations based upon complaints received from Dr. Shahidullah's clients with respect to incidents beginning in 1991 and extending through late 1994.
5. Investigations of numerous complaints received by the Board were conducted by the Office of the Attorney General. The investigative reports are dated October 14, 1993; February 17, 1995; February 28, 1995; and July 31, 1995. Not all of the complaints which were reported resulted in allegations. The investigative reports are a part of this record as Exhibits E, F, G and H, which have been redacted so that only those cases which resulted

in allegations which remain in the Amended Notice of and Order for Hearing are included.

6. Written complaints and letters to the Board which were investigated are a part of this record as Exhibits 1, 2, 3, 25, 26, 27 and 28. Exhibits 6 through 11 include correspondence from Dr. Shahidullah to the Board in response to the complaints. Dr. Shahidullah did not respond to requests for an interview made in writing by investigator Mark Bukowski in the fall of 1993 and summer of 1995. See, Exhibits 17, 18, 19 and 20.

7. Records from McLeod County concerning a cruelty to animals charge made on November 22, 1993 were received into the record as Exhibit 24 over the objection of Dr. Shahidullah. Although the Notice of and Order for Hearing includes an allegation with regard to the 1983 matter, there was no direct testimony concerning it. The records reflect that a guilty plea was entered on May 10, 1985. At a hearing on July 11, 1986, Dr. Shahidullah moved the Court to vacate his guilty plea to dismiss the allegation. His motion was granted by Order dated August 8, 1986, signed by Judge Martin J. Mansur.

8-a. The allegations included in the Amended Notice of and Order for Hearing involve treatment of nine pets owned by eight (8) different individuals or couples, all of whom testified at the hearing. Many of the allegations are the same or similar with regard to the Doctor's practices. In a few instances, there are unique circumstances.

b. Although, by his own testimony and supported by the testimony of witnesses who he called to support his case, the Doctor has changed some of his practices over the years, certain practices continue.

9-a. Dr. Shahidullah operates a mobile practice. He has a passenger vehicle which he uses to travel to clients' homes. Occasionally, clients bring their pets to his home or he brings a pet to his home for observation and treatment. Although he drove older cars several years ago, which frequently broke down, he has a newer car now, which is more dependable. Dr. Shahidullah is known to his clients as Dr. Sam. Although many of them know his full legal name, some of his clients do not know it. In response to direction from the Board in April of 1993, Dr. Shahidullah placed a message on his telephone answering machine which identifies him as "Dr. Sam" and by his full name, Mohammed Shahidullah. He declined to seek a legal name change, as suggested by the Board, because of the cost (\$150).

b. Dr. Shahidullah provides a range of services from routine blood tests and prescription of heart worm medication to "high risk cases" where clients are considering, or have requested, euthanasia. Dr. Shahidullah will not perform euthanasia. There is no evidence that he makes that clear statement to clients, even when he knows that it is their request.

c. Although Dr. John A. Newman has provided written verification of an "affiliation" with his clinic since 1992, none of Dr. Shahidullah's clients were aware of the

affiliation. In a letter dated July 10, 1996, Dr. Newman has indicated that Dr. Shahidullah has access to his clinic for blood tests, radiographs, consultation and surgeries. See, Exhibit I.

d. Dr. Shahidullah has performed numerous surgeries in clients' homes on countertops and kitchen and dining room tables. He sprays them with a solution and covers them with newspapers to prepare for surgery. He administers injectable anesthetic which is given "to effect." He does not perform physical exams of the animals he treats. He guesses weight or, in some cases, uses his clients' bathroom scales.

e. Instruments which Dr. Shahidullah uses are kept in Tupperware with a liquid which was characterized as "cold sterilization." There is evidence that he does not wash his hands before surgery and has not always worn gloves. At the hearing, he gave a physical demonstration of his knowledge of sterile procedure.

f. Dr. Shahidullah does not use bandages. He uses paper towels to absorb antiseptic solution so as not to stain the client's furniture. He customarily uses Nexaband, a surgical skin adhesive, to seal incisions. He demonstrated a method at the hearing whereby he uses suturing which is not exposed and which does not require removal. Several clients testified, however, that there were exposed sutures, which he did not return to remove, and which he instructed them to remove.

g. Dr. Shahidullah keeps cryptic, if any, records of treatment of his patients. He does not provide invoices or receipts for payments which customarily are made in cash at the time that he provides his service.

h. Dr. Shahidullah administers medications in a variety of ways. He usually uses ziplock bags and may use a vial upon which he identifies the medication. He frequently encloses a calling card or piece of paper with instructions. He does not have a uniform means by which he identifies medications by name, dosage or patient name. Several clients have had to ask the Doctor for instructions, the nature of the medication prescribed, and its purpose. See,  
and Shahidullah testimony.

10. Other practices and procedures described by one and sometimes two clients include the following:

- (1) Flushing a cat's abdominal wall with tap water after performing a caesarian section;
- (2) Arriving many hours later than indicated or not at all, after receiving a call from a client;
- (3) Accepting partial payment for medication which was never delivered;

- (4) Becoming irate with clients calling to inquire concerning treatment of their pets;
- (5) Performing cosmetic surgery resulting in ear and tail cropping not consistent with the breed or the photographs which were provided by the client;
- (6) Providing a "diagnosis" over the telephone before examining a pet;
- (7) Providing an improper diagnosis on an autopsy which was not supported with lab results;
- (8) Delaying cremation after autopsy by two years;
- (9) Taking an animal for x-ray and never producing the radiograph as requested by the client;
- (10) Disposing of animal parts and surgical waste in clients' wastebaskets;
- (11) Using a client's telephone without permission;
- (12) Engaging in casual conversation and sitting on the floor;
- (13) Injecting a cat described by the Doctor as "difficult" through a cage.

See,

testimony.

11. The Doctor has had several meetings with the Executive Director of the Board, Dr. Roland Olson. He also met with the Complaint Review Committee of the Board in 1993. Some changes in his practice were made following those meetings and the majority of the complaints in this matter. As reflected above at paragraph 9-a, Dr. Shahidullah declined to legally change his name. However, he currently has a calling card which he provides to clients with his full legal name. His telephone answering machine includes a message which identifies him as both "Dr. Sam" and Mohammed Shahidullah, indicating that his licensure is held in his legal name. He drives a newer, more dependable, car. Several current clients testified that he always uses sterile needles which are taken from sealed packages which are uncapped by him. Although he never provided the Board with any verification of affiliation, a letter dated July 10, 1996, signed by Dr. Newman, who also testified by telephone in this hearing, indicates that Dr. Shahidullah has had access to Dr. Newman's clinic. Although Dr. Newman's letter indicates that Dr. Shahidullah has access to the clinic for surgeries, there is no evidence that surgery was performed at the clinic. Only one client witness, Dr. Peter Arne, an ophthalmologist, testified that he had been advised that, in the event surgery were necessary, a clinic was available. The Doctor now carries an endotracheal tube with him in the event a patient vomits during surgery. There

is evidence that he wears gloves for surgery and that he is more fully identifying medications administered to patients. See, Parides, McFetter, Arne, Gosz and Newman testimony.

12-a. Four veterinarians testified at the hearing of this matter. Dr. Mary Olson has practiced in excess of 20 years in rural Minnesota. She is active in the Minnesota Veterinary Medicine Association. She is currently Secretary/Treasurer, serves on the Practice Ethics and Grievance Committee and has served on the Board since 1988. Dr. John A. Newman, who provided the letter verifying "affiliation," has practiced veterinary medicine in Minnesota for nearly 30 years. He testified by telephone on behalf of Dr. Shahidullah. Dr. Roland Olson, Executive Director of the Board, did not testify as an expert witness, although he did provide some testimony with regard to custom and practice in the profession. Dr. Susan Hawes is a 1996 graduate of the University of Minnesota School of Veterinary Medicine. Her friend, \_\_\_\_\_, asked her to be present when her dog was neutered by the Doctor in her home in November, 1994. She sent a written complaint to the Board in June, 1995. See, Exhibit 1.

b. There was agreement that home surgery is not accepted practice and hasn't been for at least 50 years. Although it may be possible to provide a sterile environment, it is unlikely because there customarily are not surfaces which may be adequately sterilized in one's home. Lighting in a home is most likely not adequate. The use of an autoclave or gas sterilization to sterilize instruments is customary. A sterile pack is identifiable by its tape which seals it and which has cross-hatched black lines to indicate the instruments contained therein have been processed in an autoclave. Cold sterilization is not usually considered to render instruments sterile. It is customary to use aseptic procedure which includes use of autoclaved instruments and sterile gloves for surgical procedures. Gas anesthetics are preferred. Injectable anesthetics are risky and should not be given "to effect" because of the uncertainty of the dosage which has been administered. Dosage is dependent upon weight; therefore, guessing an animal's weight provides risk of using an improper amount of anesthetic. Although extraordinary procedures and precautions may be necessary because of the demeanor of an animal, it is important to discuss options with a client rather than risking improper injection through the wall of an animal carrier.

c. Standard, "best practice," for an individual practicing veterinary medicine is to adopt a "SOAP" recordkeeping process which includes subjective analysis, objective analysis, assessment of the patient and the plan which is presented. A pre-op examination should include examination of an animal's mouth for gum color, a determination of whether anemia is present, listening to a pet's heart and lungs and palpitation of the abdomen. Although there is no requirement to provide euthanasia, it is necessary and important to advise a client if euthanasia is not an option immediately when the doctor understands that it is euthanasia which is being requested. Treatment options should always be discussed and there should be joint decision-making, with the ultimate decision being with the client.

d. It is never appropriate to provide a diagnosis over the telephone and before a pet is examined. Although possible diagnoses may be suggested, it is most important to

emphasize that it is first necessary to examine the animal.

e. Clear communication with clients is important. Anticipating questions and explaining procedures and aftercare by the client is necessary and an important part of the practice of veterinary medicine.

f. Cremation customarily occurs immediately after autopsy. It is not appropriate to delay cremation.

g. Although Nexaband is a substance used to seal a wound, it is often not effective. While bandages may not be necessary, paper towels are not sterile and should not be placed on a fresh wound.

h. A solution such as Lactated Ringer's Solution should be used to flush any open wounds. The use of tap water places an animal at risk of infection. Tap water is not sterile.

13-a. Four of the nine cases which form the basis for this matter involved either post-operative infection, which required further treatment, or the death of an animal. In one case, a cat was taken on an emergency basis to the University of Minnesota School of Veterinary Medicine, where its wound was debrided and re-sutured. After several days of no improvement and refusal by the doctor to return, the cat was taken to the University of Minnesota, where a staph infection was diagnosed. See, testimony and Exhibit 28.

b. had called Dr. Shahidullah at the recommendation of a relative. Although they may not have clearly communicated their request over the telephone, it was their intent that the Doctor perform euthanasia upon their 17 year old cat. They had visited their regular veterinarian, who advised them that the cat had a tumor and that choices included exploratory surgery or euthanasia. They decided to go home and make their decision. Because it was traumatic for the cat to travel in a car, and because it was also traumatic to be in a veterinarian's office, they concluded that they wanted to euthanize the cat at home. Dr. Shahidullah responded to their call the day after the initial call was placed. Although he was advised that it was euthanasia which was requested, he persuaded the to permit him to treat their cat. He provided them with Prednisone and a diuretic. He broke the pills apart and placed them in a ziplock bag. He advised them what the medications were and their purpose after being asked. Although the cat showed some improvement for a day or two, thereafter he began to fail and was clearly suffering. The called the Doctor for help. He indicated that his car was broken down and, moreover, that he wanted time to consider whether he would provide euthanasia. When the cat continued to deteriorate, the concluded that they would need to take him for euthanasia. The result which they had originally wanted to avoid became necessary. They took their pet to an emergency clinic late on a cold night to be euthanized after the Doctor did not respond to their request. See, testimony and Exhibits 2 and 3.

c. contacted Dr. Shahidullah when their cat failed to deliver

a full litter of kittens. They called the Doctor within eight hours of the delivery of the last kitten. When he arrived the next day, they inquired whether euthanasia was most appropriate. He performed a caesarian section in their home, flushed the cat's open abdomen with tap water, and instructed the [redacted] to leave her alone for a period of time to recover. The cat became progressively worse. She did not recover from the surgery and died. The Doctor did not respond to the [redacted] call for help. He laughed when he was told that the cat had died. See, [redacted] testimony and Exhibit 25.

d. [redacted] was a cat owned by the [redacted]. They called Dr. Shahidullah at the suggestion of [redacted], who testified on behalf of the Doctor at this hearing. The cat was nine years old and they believed it may have a urinary tract infection. The Doctor offered an opinion over the telephone that the cat had "FUS," which is not a diagnosis but a syndrome (Feline Urological Syndrome). He visited the [redacted] home the next day and examined the cat on their dining room table. He gave the cat an injection of Lasix and provided the [redacted] with pills in a ziplock bag. When the cat's condition worsened, the [redacted] contacted the Doctor, who came after several calls on December 12. He indicated that he wanted to take the cat for an x-ray. He drew blood and took the cat to his home for observation. He indicated that he wanted to determine whether the cat was urinating properly. When they did not hear from the Doctor, the [redacted] contacted him on December 13 to learn the condition of their cat. He became irate with them for contacting him so frequently, and indicated that the cat had "multiple problems." The next day, he apologized to them for yelling, and indicated that the cat had urinated on his bed. Later he indicated that, although the cat appeared to be alright when he got up on December 14, 1992, the next time he checked, the cat was dead. The [redacted] requested an autopsy and cremation. They were not provided with the radiograph of the cat or autopsy or cremation reports. Those reports, which are a part of this record, indicate that the cremation was performed on April 5, 1994. The autopsy report identifies Chronic Glomerulo Nephritis or "End Stage Kidney" as the cause of death, although there is no medical support for that conclusion. The lab report indicates that that was not the likely cause of death. There was no histological or pathological report to support the Doctor's diagnosis. See, M. Olson, Shahidullah and [redacted] testimony and Exhibit 26.

14. Dr. Shahidullah has attributed the basis for many of the several complaints which were made to be client negligence or poor decision-making. He has expressed a belief that delay in calling him, refusal to seek treatment elsewhere when he could not come immediately, a negative and complaining nature, the likelihood that a cat drank or was affected by fumes from paint, and unreasonable expectations such as extraordinary treatment for relatively small fees to be the basis for many complaints. The hearing record is replete with his opinion that many of his problems are the result of discrimination. He has also indicated that money is frequently an issue. Because he does provide house calls and many people appreciate the lower rates which he charges, when individuals do not have sufficient money for a procedure, he has either deferred treatment or treated an animal differently. For example, he believes that the [redacted] waited three days before calling him when their pregnant cat failed to deliver all her kittens, and suggested that he wait to perform a

caesarian section until they had the money to pay him. Money was also an on-going issue with respect to the supplies which he purchased and the equipment that he had. He claimed that he did not have sufficient money to have a "fancy" clinic or car. He also indicated that he makes the most economical buy with regard to supplies.

15. Although he practiced in Winsted, Minnesota for a period of time, there is no direct testimony that his clinic continues to operate. During the hearing, he suggested that his Winsted clinic was, in fact, the clinic with which he was "affiliated" in his mobile practice.

16. During the pendency of this hearing, one of Dr. Shahidullah's two homes was condemned by the City of St. Paul as uninhabitable. A St. Paul inspector and a police officer both testified at this hearing concerning the circumstances which led to and followed the condemnation. Photographs taken by the inspector are a part of this record at Exhibits 31-a through 41. The photographs are of 1132 Central Avenue West. They picture strewn medical supplies and equipment, animal cages and significant debris and filth which formed the basis for the decision to condemn the house. See, Lippert and Shahidullah testimony and Exhibit 42.

17-a. This case was originally assigned to Administrative Law Judge Howard Kaibel. He worked with the parties in attempting to reach a mediated settlement. When that was not accomplished, Administrative Law Judge Barbara Neilson was assigned to the matter. Judge Neilson issued several Pre-Hearing Orders. By letter Order, she continued the hearing from February 23, 1996 to March 22, 1996. In her letter, she established a discovery procedure. By Order dated March 13, 1996, she ruled upon a motion brought by the Board regarding pre-hearing discovery matters. The Board also sought to have the pleadings and hearing in this matter open to the public, provided that the identities of the complainants were protected. In that respect, Judge Neilson ruled as follows:

- (2) Pleadings, exhibits, and deposition transcripts that identify complainants shall be marked 'not public data' at the top of the initial page and shall be filed in a sealed envelope bearing the following notation: 'This envelope, filed in this case by [name of party] contains not public information and is not to be opened or the contents thereof reviewed except by the Administrative Law Judge.' Such pleadings, exhibits, or deposition transcripts may be reviewed by members of the public only if the complainants provide written consent to such disclosure or if the names of complainants and identifying information are first redacted.

b. By Order dated March 22, 1996, Judge Neilson continued the matter for hearing to May 14, 1996 and established an April 23, 1996 Pre-Hearing Conference date directing that all discovery would be completed by that day. Following the April 23, 1996 Pre-Hearing Conference, Judge Neilson issued an Order dated April 25, 1996 setting out a

further discovery schedule and deadline date for motions. The hearing date of May 14, 1996 was maintained.

c. By Order dated May 19, 1996, Judge Neilson ruled with regard to the Board's motion to compel and motion to exclude witnesses, and to the Respondent's request for a continuance. Judge Neilson directed Dr. Shahidullah to file a supplemental witness list to permit her adequate information in order to rule upon the Board's motions with regard to witnesses and with regard to its motion to exclude the testimony of an Assistant Attorney General. She continued the hearing to June 4, 1996 and finally directed Dr. Shahidullah to file reply briefs "with respect to his motions to dismiss and for summary judgment by Monday morning, May 13, 1996."

d. By Order dated May 28, 1996, Judge Neilson denied Dr. Shahidullah's motion to dismiss and for summary judgment and his request to hold one day of the hearing in New Ulm, Minnesota.

18. Because of Judge Neilson's caseload and scheduling difficulties, this matter was assigned to the undersigned Judge. A previously-scheduled Pre-Hearing Conference on May 31, 1996 was conducted by telephone by the Judge. The hearing was scheduled to begin on June 21, 1996, with additional hearing days of June 24, June 26 and June 28 set on the calendar. Following the May 31, 1996 telephone Pre-Hearing Conference, which was recorded, Dr. Shahidullah filed an Affidavit of Prejudice with the Office of Administrative Hearings. The Attorney General was given an opportunity to respond and did respond by letter dated June 4, 1996. By Order dated June 7, 1996, the Affidavit of Prejudice was denied by the Chief Administrative Law Judge.

19. After 5:00 p.m. on June 20, 1996, the Judge received a voice mail message that Dr. Shahidullah would not appear at the hearing the next day. The telephone message was from a friend, who indicated that the Doctor was "out of town." In following up and responding to the telephone message, the Judge was advised that the Doctor was incarcerated in the Ramsey County Correctional Facility. After conference calling in attempts to reach the Doctor directly, and after having conversations with the Correctional Facility, it was determined to commence the hearing there. After commencing the second day of the hearing on June 24, 1996, Dr. Shahidullah indicated that he was ill and would not be able to continue. The Judge indicated that he would be required to have a medical diagnosis in order to continue the hearing further. A break was taken and Dr. Shahidullah was seen by Dr. Timothy Lane, who provided a statement that he was diagnosed with bronchitis and that Zithromax had been prescribed. Dr. Lane, an individual identified on Dr. Shahidullah's potential witness list, was contacted by telephone to confirm his diagnosis. Thereafter, the hearing was continued several days to Friday, June 28, 1996 at Dr. Lane's suggestion. Subsequent hearing days on July 8, July 9 and July 11 were scheduled.

20. Before adjourning the hearing on June 24, 1996, the Judge reminded Dr. Shahidullah that he had not provided a supplemental witness list, nor had he produced

certain patient records. By letter dated June 18, 1996 directed to Ms. Offermann and Dr. Shahidullah, the Judge had responded to Ms. Offermann's request for direction with regard to pending matters, including production of patient records and identification of witnesses. She referred back to Judge Neilson's May 10, 1996 Order. In the Judge's letter, the May 10 Order was confirmed, as well as the Judge's direction at the Pre-Hearing Telephone Conference on May 31, wherein Dr. Shahidullah was once again directed to produce patient records. Dr. Shahidullah had been directed to provide a clear copy of his witness list, which included 70 individuals, and to provide further information in order for the Judge to rule with respect to his request that 70 witnesses be allowed to testify. When Dr. Shahidullah did not provide the requested information, the Judge ruled by letter dated June 18 that the Doctor would be allowed to choose one of the three investigators, that the Assistant Attorney General would not be required or permitted to testify, that Dr. Shahidullah could identify five clients or other professionals who could testify with regard to his professional character and practice, and that Dr. Shahidullah could call any witness who had specific knowledge with regard to the various allegations set forth in the Notice of and Order for Hearing.

21. Throughout the pendency of this matter, Dr. Shahidullah was continually reminded to provide specific information with regard to the witnesses he intended to call. He was also encouraged to retain counsel. Although he identified approximately 25 witnesses at one point in the middle of the hearing, he was not specific or direct, and not all of the potential witnesses he identified were, in fact, called to testify. He continued to express lack of understanding and protested that he was being improperly restricted in the presentation of his case. At the hearing, he was provided with the only original legible potential witness list with 70 individuals. The judge repeatedly requested return of that list. The list has never been returned.

22. Prior to resumption of the hearing on June 28, 1996, Dr. Shahidullah contacted the Judge to indicate that his home had been burglarized and that all records had been taken. He requested that the Board be directed to provide him with copies. At the beginning of the hearing on June 28, the Judge confirmed that Dr. Shahidullah had been provided with the documents which he needed. Dr. Shahidullah's report to the police, made at 2:00 a.m. on June 25, 1996, reflects a report of burglary at 328 North Lexington Avenue, Apartment 6. The police report reflects that Dr. Shahidullah reported the loss of a 13" television, Sony camcorder, miscellaneous tools, his checkbook, and his veterinary files.

23. Mid-morning on July 12, 1996, Kay M. Thompson, attorney, appeared in the hearing room to represent Dr. Shahidullah. Ms. Thompson indicated that she had been retained the evening before. The Judge provided Ms. Thompson with some background concerning the history of the case. Ms. Offermann was directed to brief Ms. Thompson. Ms. Thompson remained in the hearing room through July 12. By letter dated July 15, 1996, Ms. Thompson advised Ms. Offermann, and the Judge by copy, that she would not be appearing on behalf of Dr. Shahidullah except to facilitate negotiation and settlement of the

case, if possible.

24. After adjournment of the hearing on July 18, the Judge corresponded with Ms. Offermann and Dr. Shahidullah by letter dated July 22, 1996 to confirm the briefing schedule which required simultaneous briefs to be filed by Monday, September 9, 1996. The Judge also identified Exhibits which remained outstanding. They include the original witness list referred to above at Findings paragraph 21, as well as Licensee's Exhibit M, a record from the University of Minnesota offered by the Doctor. Dr. Shahidullah had also been directed to provide Ms. Offermann with prints of photographs which had been received into evidence as Licensee's Exhibits R through Y. In reviewing the record, the Judge also notes that Dr. Shahidullah was directed to provide the Judge and Ms. Offermann with copies of the videotape which he recorded on the final hearing day. The videotaping of the hearing was permitted over Ms. Offermann's objection. The Doctor was restricted in use to the video for his own preparation of his closing brief. He was cautioned against any other dissemination of the videotape. To date, the outstanding witness list, Exhibit M and the videotape have not been received. Ms. Offermann has indicated in her transmittal of the Board's closing brief, that the photographs (Licensee's Exhibits R through Y) have also not been received by her.

25. By letter dated April 17, 1993, \_\_\_\_\_ and \_\_\_\_\_ wrote to the Minnesota Board of Veterinary Medicine complaining about Dr. Shahidullah's practice. Their four-page letter was also sent by copy to Governor Arne Carlson, Patrick Ryan, DVM, and Joel Grover at KSTP News. Although the record does not provide any detail, there was testimony by the Doctor, particularly in cross-examining witnesses and in brief reference in presenting his own case, that an "exposé" type segment had been presented on KSTP News in mid-May, 1993. The Doctor testified that the focus of the news report was upon another veterinarian, and that his photo was shown briefly thereafter. See, Exhibit 26.

26. During the pendency of this hearing, numerous client letters and motions to intervene have been received by fax and mail by the Judge. The last letter received was dated October 1, 1996. Copies of those documents were not provided to the Assistant Attorney General. Although the Motion to Intervene by Lynda Frantz was addressed on the record and denied, none of the other unsolicited letters and faxes are officially a part of the record or have been considered by the Judge. See, Transcript Volume V, pages 1145-1154.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS OF LAW**

1. The Administrative Law Judge and the Minnesota Board of Veterinary Medicine have jurisdiction over this matter pursuant to Minn. Stat. §§14.50 and 214.10. The Notice of and Order for Hearing issued by the Board in this matter was in all respects proper as to form and content. The Amendment to the Notice of and Order for Hearing was also proper.

The Board has complied with all substantive and procedural requirements of law and rule.

2. Minn. Stat. §214.10 sets forth the procedure for the handling of complaints, including investigation and hearing in this matter. At Subd. 2, the law provides that the Executive Director or a "consulted Board member" may attempt to resolve the matter short of a hearing. It provides for discretion in determining when a hearing is required. It further provides, "a Board member who was consulted during the course of an investigation may participate at the hearing but may not vote on any matter pertaining to the case." Executive Director Roland Olson testified in this hearing and indicated that he had had significant contact with Dr. Shahidullah during the pendency of this matter and through his seven year tenure on the Board. Dr. Shahidullah expressed an opinion that those matters which he and Dr. Olson had discussed earlier should not be the subject of this hearing. There is no support for that conclusion. It is appropriate to conclude that Dr. Olson may not participate in the vote of the Board with regard to the recommendations contained herein.

3. Minn. Stat. §§156.001 through 156.20, together with Minn. Rules 9100.0100 through 9100.0900 apply to this matter. Minn. Stat. Chapter 156 was in effect in 1991 when the first complaint which is the subject of this case was received. Minn. Rules 9100.0100 through 9100.0400 were in effect in 1991. Those Rules were amended and expanded on April 1, 1993. Amendments were proposed by publication in the State Register on October 23, 1992. After a comment period, amended Rules were adopted on March 1, 1993 and became effective on April 1, 1993.

4. Three of the nine cases which are detailed in the Notice of and Order for Hearing involve treatment by the Doctor of pets after the Rules were amended effective April 1, 1993. Several of the witnesses who testified on his behalf reported with regard to his current practices and practices after the adoption of the amended Rules.

5. Minn. Stat. §156.081 is captioned "Revocation; Suspension." It provides the basis for revocation or suspension by the Board of the license of any person to practice veterinary medicine. Causes are detailed at Subd. 2, which include the following relevant provisions:

Subd. 2. The Board may revoke or suspend a license for any of the following causes:

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(11) Habitual conduct reflecting unfavorably on the profession of veterinary medicine or conduct in violation of law or rules of the Board.

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(14) Fraud, deception, or incompetence in the practice of veterinary

medicine.

(15) Unprofessional conduct as defined in rules adopted by the Board.

6. Minn. Stat. §156.16 provides definitions with regard to veterinary prescription drugs. At Subd. 12, it provides as follows:

**Veterinarian-client-patient relationship.** 'Veterinarian-client-patient relationship' means the relationship in which the conditions of paragraphs (a) to (d) have been met.

- (a) The veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal and the need for medical treatment, and the client has agreed to follow the instructions of the veterinarian.
- (b) The veterinarian has sufficient knowledge of the animal to initiate at least a general, preliminary, or tentative diagnosis of the medical condition of the animal. The veterinarian must be acquainted with the keeping and care of the animal by virtue of the examination of the animal or medically-appropriate and timely visits to the premises where the animal is kept.
- (c) The veterinarian is available for consultation in case of adverse reactions or failure of the regimen of the therapy.
- (d) The veterinarian maintains records documenting patient visits, diagnoses, treatments, and drugs prescribed, dispensed, or administered, and other relevant information.

7. Minn. Stat. §156.18, Subd. 2, provides as follows with regard to the labeling of dispensed veterinarian drugs:

- (a) A veterinarian or the veterinarian's authorized agent dispensing a veterinarian prescription drug or prescribing the extra-label use of an over-the-counter drug must provide written information which includes the name and address of the veterinarian, date of filling, species of patient, name or names of drug, directions for use, withdrawal time, and cautionary statements, if any, appropriate for the drug.
- (b) If the veterinary drug has been prepared, mixed, formulated or packaged by the dispenser, all of the information required in paragraph (a) must be provided on a label affixed to the container.

- (c) If the veterinary drug is in the manufacturer's original package, the information required in paragraph (a) must be supplied in writing, but need not be affixed to the container. Information required in paragraph (a) that is provided by the manufacturer on the original package does not need to be repeated in a separate written information. Written information required by this paragraph may be written on the sales invoice.

8-a. Rules in effect in 1991 (when the first incident for which a complaint was made in this case) which apply specifically to this case include 9100.0100, Subpart 2, which defines "equipment." 9100.0200, captioned "premises" which refers to equipment at Subpart 4, and Minn. Rule 9100.0200, Subpart 9, which provides for waste disposal.

b. With regard to waste disposal, "Covered, vermin-proof waste containers impermeable by water, shall be used for the removal and disposal of animal and food waste, bedding, dead animals, debris, and other waste. Disposal facilities shall be so operated to prevent a nuisance condition, to minimize insect and other vermin infestation, odor and disease hazards." 'Equipment' means any instruments, tools, clothing, vehicles, and other equipment used in the practice of veterinary medicine.' Minn. Rule 9100.0100, Subpart 2. Minn. Rule 9100.0200, Subpart 4, requires that equipment be maintained in a clean and sanitary condition at all times.

9. Those Rules which became effective on April 1, 1993 and which apply specifically to this case include Minn. Rule 9100.0100, Subparts 3A (Humane Treatment), 4B (Sterile Surgery), and 6 (Veterinarian-client-patient); 9100.0700, which defines unprofessional conduct, citing prohibited acts and cross-referencing with 9100.0800, which provides for minimum standards of practice.

10. As detailed in the foregoing Findings, although six of the nine patient treatment allegations occurred before the amended Rules became effective in April, 1993, nonetheless several of the Doctor's witnesses testified that those treatment practices and procedures largely were continuing. The foregoing Findings have detailed those areas in which the Doctor appeared to make changes in response to the complaints which had been made.

11. Minn. Rule 9100.0100, Subparts 3A, 4B and 6, provide definitions as follows:

**Subpart 3A. Humane Treatment.** 'Humane treatment' means care and treatment that prevents acts of omission or commission, including deprivation of necessary food, water, and shelter, that causes or permits unnecessary or unjustifiable pain, suffering, or death of an animal.

**Subpart 4B. Sterile Surgery.** 'Sterile surgery' means an invasive procedure in which aseptic technique is practiced in patient preparation, instrumentation,

and surgical attire.

**Subpart 6. Veterinarian-Client-Patient Relationship.** 'Veterinarian-client-patient relationship' means a relationship that meets the conditions established in Minnesota Statutes, Section 156.16, Subdivision 12.

12. Minn. Rule 9100.0700 provides in relevant part with regard to unprofessional conduct as follows:

**Subpart 1. Prohibited Acts.** The following acts by a licensed veterinarian are unprofessional conduct and constitute grounds for disciplinary action against the licensee:

- A. Failure to meet the minimum standards of practice in 9100.0800.
- B. Engaging in conduct likely to deceive, defraud or harm the public or demonstrating a willful or careless disregard for the health, welfare or safety of a patient, in which case proof of actual injury need not be established.
- C. Engaging in veterinary practice that is professionally incompetent in that it may create unnecessary danger to a patient's life, health or safety.

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- F. Practicing veterinary medicine under a false or assumed name or impersonating another practitioner of a like, similar, or different name.

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- H. Failing, within 30 days, to provide information in response to a written request made by the Board pursuant to an investigation by or on behalf of the Board.

13. Minn. Rule 9100.0800 provides in relevant part with regard to minimum standards of practice as follows:

**Subpart 1. General Standard.** The delivery of veterinary care must be provided in a competent and humane manner consistent with prevailing standards of practice for the species of animal and the professed area of expertise of the veterinarian. For a veterinarian to exercise properly the rights granted by the veterinary license, a veterinarian-client-patient relationship must exist.

**Subpart 2. Pharmaceutical Services.** The provision of pharmaceutical services is governed by items A to C.

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- B. A veterinarian is responsible for assuring that a prescription drug or biologic prescribed for use is properly administered, or for providing instructions to clients on the administration of drugs when the veterinarian will not be providing direct supervision.

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**Subpart 3. Sterile Surgical Services.** When sterile surgical services are being provided, or when prevailing standards dictate sterile surgery, those services are governed by items A to D.

- A. The surgery room must be clean, orderly, properly maintained, capable of being adequately disinfected, well-lighted, and provided with effective emergency lighting.
- B. The floors, tabletops, and countertops of the surgery room must be of a material suitable for regular disinfection and cleaning.
- C. Instruments, equipment and packs for aseptic surgery must be:
  - (1) Adequate for the type of surgical service provided; and
  - (2) Sterilized by a method sufficient to kill spores.
- D. Proper elimination for viewing radiographs must be available.

**Subpart 4. Recordkeeping.** Recordkeeping is governed by items A to F.

- A. A veterinarian performing treatment or surgery on an animal or group of animals, whether in the veterinarian's custody at an animal treatment facility or remaining on the owner's or caretaker's premises, shall prepare a written record or computer record concerning the animals containing, at a minimum, the following information:
  - (1) Name, address and telephone number of owner.
  - (2) Identity of the animals, including age, sex and breed.
  - (3) Dates of examination, treatment and surgery.

- (4) Brief history of the condition of each animal, herd or flock.
- (5) Examination findings.
- (6) Laboratory and radiographic reports.
- (7) Tentative diagnosis.
- (8) Treatment plan.
- (9) Medication and treatment, including amount and frequency.

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**Subpart 6. Mobile Veterinary Practice.** Mobile veterinary practice is governed by items A to E.

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- A. Mobile veterinary practices that form a clinical veterinary practice that may be transported or moved from one location to another for delivery of service. Mobile veterinary practice may be general service, limited service, or outcall service. For purposes of this item:

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3. 'Outcall service' is a mobile extension of a fixed location general service veterinary practice, located within the same practice area, but removed from the practice premises. Depending on the types of animals being treated, an outcall service provides vaccinations, physical examinations, treatments, diagnostic screenings, and surgery.
- B. Mobile veterinary practices that are not extensions of a fixed veterinary facility must have an affiliation with a general service veterinary facility in the same region for the provisions of long-term hospitalization, surgery, or radiology if not available in the mobile unit. Clients must be informed, in writing, of this affiliation.
- C. In all types of mobile veterinary practice, patient care must be consistent with prevailing standards of practice and a veterinarian-client-patient relationship must exist.
- D. Mobile units must be maintained in a clean and sanitary fashion.

Vehicles must contain equipment necessary for the veterinarian to perform physical examinations, surgical procedures, and medical treatments consistent with the type of veterinary services being rendered and the standards of practice for those services.

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**Subpart 8. Humane Care.** A licensed veterinarian shall treat animals entrusted to the veterinarian by a client consistent with prevailing professional standards of humane treatment and care.

**Subpart 9. Informed Consent.** A client shall be informed by the veterinarian, prior to treatment, the treatment choices and reasonable medical or surgical alternatives, including an estimated cost of the alternatives for consideration by the client.

14. The Board in this case has proven by a preponderance of the evidence that Dr. Mohammed Shahidullah has engaged in habitual conduct reflecting unfavorably on the profession of veterinary medicine and conduct in violation of rules of the Board; that Dr. Mohammed Shahidullah has demonstrated incompetence in the practice of veterinary medicine; and that he has demonstrated unprofessional conduct as defined at Minn. Rule 9100.0700.

15. The Board of Veterinary Medicine has demonstrated by a preponderance of the evidence that Dr. Mohammed Shahidullah has not and continues to fail to label dispensed veterinary drugs in the manner required by Minn. Stat. §156.18, Subd. 2.

16. With regard to the premises at which veterinary services are provided by Dr. Shahidullah, the Board has demonstrated by a preponderance of the evidence that he has failed to maintain equipment in a clean and sanitary condition at all times; that the premises have not been kept clean and in good repair to facilitate acceptable sanitary practices free of accumulations of refuse; and that he has failed to comply with the requirements with regard to waste disposal, as provided at Minn. Rule 9100.0200, Subparts 4, 7 and 9.

17. With respect to unprofessional conduct, first defined by Rule which became effective on April 1, 1993, the record supports a conclusion that Dr. Shahidullah has failed to meet the minimum standards of practice set forth at Minn. Rule 9100.0800; that he has and continues to engage in conduct which is likely to harm the public and which demonstrates a willful or careless disregard for the health, welfare or safety of a patient; that he has and continues to engage in veterinary practice that is professionally incompetent in that it may create unnecessary danger to a patient's life, health or safety; that he continues to practice veterinary medicine under an assumed name; and that he has failed to provide, within 30 days, response to a written request made by the Board pursuant to an investigation.

18. The Board has proven by a preponderance of the evidence with regard to minimum standards of practice defined at Minn. Rule 9100.0800, which became effective on April 1, 1993, that Dr. Mohammed Shahidullah has and continues to fail to provide sterile surgical services or recordkeeping as set forth in Subparts 3 and 4 of that Rule.

19. The Board has proven by a preponderance of the evidence with Dr. Mohammed Shahidullah has failed to and continues to fail to provide mobile veterinary practice consistent with the requirements of Minn. Rule 9100.0800, Subpart 6.

20. The record supports a conclusion that Dr. Mohammed Shahidullah does not treat animals entrusted to him consistent with prevailing professional standards of humane treatment and care. His beliefs preclude him from performing euthanasia. Nonetheless, he takes many "high risk" cases, persuading clients to permit treatment when there appears to be little hope for survival by the animal. Although there is no specific example in the record after the April 1, 1993 effective date of Minn. Rule 9100.0800, Subpart 8, which provides for humane care, nonetheless the Doctor's own testimony with regard to his practice style and procedures support this conclusion.

21. There is evidence to support a conclusion that Dr. Mohammed Shahidullah does not provide informed consent, as required by Minn. Rule 9100.0800, Subpart 9. This Rule became effective April 1, 1993. While there are no specific examples in the record after April 1, 1993, the Doctor's own testimony with regard to his practice and his failure to outline that practice requirement, supports this conclusion. He was informed, in that regard, by the testimony of the Board's expert, Mary Olson.

22. It is appropriate to conclude that this entire record shall be marked "contains not public data," contrary to the Order of Judge Barbara Neilson, which contemplated that a good portion of the record would not be so marked. As it has evolved, many of the transcripts, the Exhibits, Orders and this report include the names of the complainants. As Judge Neilson's Order reflects, any one of the documents may be redacted and properly distributed.

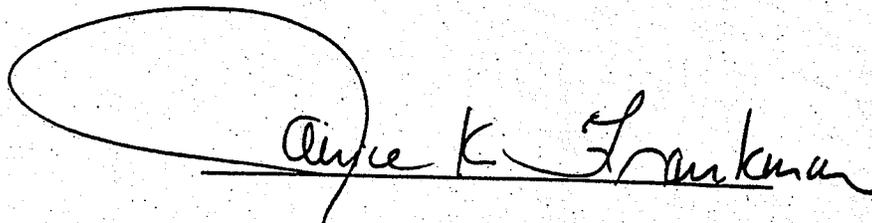
23. Dr. Mohammed Shahidullah has demonstrated a high level of animus for the Board which governs his profession, and disregard for, in his words, the "tiny little rules" which apply to his practice as a veterinary medical doctor. He has failed to cooperate with the Board through the investigation of this matter, as explicitly demonstrated by his failure to cooperate in completing this process.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RESPECTFULLY RECOMMENDED that the Minnesota Board of Veterinary Medicine take disciplinary action against Dr. Shahidullah's license to practice veterinary medicine, consisting with the Findings of Fact and Conclusions set forth above.

Dated: October 14, 1996.

A handwritten signature in cursive script, reading "Janice K. Frankman". The signature is written in black ink and is positioned above a horizontal line.

Janice K. Frankman  
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. §14.62, Subd. 1, the agency is required to serve its final Decision upon each party and the Administrative Law Judge by first class mail.

REPORTED: Transcript prepared by Brennan & Associates, 3052 Woodlark Lane, Eagan, Minnesota, 55121.

## MEMORANDUM

Although the Board presented a solid and clear case, any weaknesses or potential weakness was addressed by Dr. Shahidullah's testimony and conduct during this hearing. The manner in which he presented himself, challenging the fairness of the process and at the same time failing to cooperate, lent credibility to the Board's case. His cross-examination of witnesses, examination of his own witnesses and his own testimony all placed blame and shifted responsibility to others. He made very few clear statements in response to the direct allegations made by the Board. The clearest statement was an absolute denial that he failed to shave an animal in preparation for surgery. Otherwise, he largely demonstrated disregard and disrespect for the rules. Although he emphasized that he had been born and raised in another culture, he did not seek to explain any cultural differences, acknowledge different practices or seek understanding in that regard. He repeatedly asked witnesses which was more important to them; that he follow the Board's "tiny rules" or provide good service to their pet. Although there was evidence of proper and competent care, there also was overwhelming evidence of patients placed at risk and subject to incompetent and inhumane care.

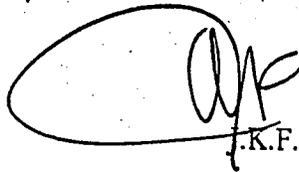
This case has been particularly challenging because of the serious nature of it, involving the Doctor's professional license and the public interest in having competent service. It was of ongoing concern that the Doctor, with the exception of a part of a hearing day, appeared on his own behalf. The Judge and the Assistant Attorney General took significant steps to provide the Doctor with copies of documents and information with regard to procedure. Nonetheless, he waged ongoing accusations of unfairness and mistreatment of him. An overarching issue which he raised repeatedly was a belief that he has been subject to ongoing discrimination as a black man born out of the United States. The matter of discrimination was addressed directly on the record several times by the Judge, who advised Dr. Shahidullah that there was no jurisdiction in this matter to hear any claims of discrimination.

Further challenges were provided by the fact that this matter came to hearing two and one-half years after the last formal complaint had been made to the Board and that the defining and codifying rules were adopted during the pendency of the complaint procedure in the Board office and after all but two of the complaints had been received.

In addition to careful research and review of the statutory law and rules which applied to this case, the Judge also carefully considered whether and to what extent the evidence and testimony presented with regard to the 1985 District Court matter involving cruelty to animals in McLeod County and the condemnation of his home in June of 1996 should be given consideration and weight in this matter. While little weight was given to the 1985 matter, the Judge concluded that it was appropriate to consider and give weight to the testimony of inspector Lippert and the photographs which he produced in conjunction with his testimony concerning condemnation of one of the Doctor's homes. Because the Doctor's own testimony and the testimony of his witnesses supports a

conclusion that his home at 1132 Central West is clearly a part of his practice, as it has been during the pendency of this matter, it became appropriate to give weight to that evidence and testimony. It was not necessary, however, to reach the legal conclusions which were reached in this case. That testimony also addressed the Doctor's credibility in this matter. Many questions went unanswered, and the believability of his claim that all of his veterinary records and papers in preparation for this hearing had been taken was weakened. In short, the Doctor's presentation of his case and the evidence and testimony of recent events supported the credibility of the complainants' testimony and statements which they made in complaints to the Board contemporaneous with the service provided by the Doctor.

Finally, although there are numerous practice areas that Dr. Shahidullah would necessarily need to address if given a chance to continue his practice, the Judge observes clear impatience with and outright animus for clients who ask questions he does not like. There were cases of clear personality differences which adversely affected the Doctor-client-patient relationship. As Dr. Mary Olson clearly and extensively testified, client communication is challenging and important to maintain relationships. Good communication is critical to the welfare of the patient and the success of the doctor's practice. She made many suggestions, at the Doctor's request, with regard to how certain situations could be properly handled.



J.K.F.