

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
Duane E. Wyatt, D.V.M.
License No. 04976

STIPULATION AND ORDER

STIPULATION

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

I.

JURISDICTION

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

2. Licensee holds a license from the Board to practice veterinary medicine in the State of Minnesota and is subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation and Order.

II.

COMPLAINT REVIEW COMMITTEE

The Complaint Review Committee that negotiated this Stipulation with Licensee is composed of Joanne Schulman, D.V.M., Michael Murphy, D.V.M., and John King, D.V.M., Executive Director of the Board. Daphne A. Lundstrom, Assistant Attorney General, represented the Committee in this matter. Licensee was represented by Robert E. Kuderer, Esq.

III.

FACTS

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 licensed to practice in the State of Minnesota on July 7, 1976.
2. On November 14, 2008, the Board received a complaint that Licensee may be unable to practice with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or other materials or as a result of any mental or physical condition.
3. The Committee referred the matter to the Minnesota Attorney General's Office for investigation pursuant to Minn. Stat. §§ 214.10 and 214.103.
4. Evidence obtained during the investigation shows that Licensee may be violating state or federal narcotics law or controlled substance law and that he may be engaged in incompetence in the practice of veterinary medicine.
5. On February 4, 2009, Licensee informed the Board he did not intend to practice veterinary medicine in Minnesota and he wished to resolve the pending allegations against him by entering into an indefinite suspension of his license.

IV.

LAWS

Licensee acknowledges that an administrative law judge or other finder of fact could conclude that the facts and conduct described in section III above constituted violations of Minn. Stat. § 156.081, subd. 2(6) and (11), and would be sufficient grounds for the remedy set forth below.

V.

REMEDY

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

1. The Board hereby **RESCINDS** the Stipulation to Cease Practicing Veterinary Medicine, which shall have no future force or effect.

A. Indefinite Suspension

2. The Board **SUSPENDS** Licensee's license to practice veterinary medicine. Licensee shall not thereafter engage in any act which constitutes the practice of veterinary medicine as defined in Minn. Stat. ch. 156 and shall not imply by words or conduct that Licensee is authorized to practice veterinary medicine.

3. Licensee shall surrender his license to the Board. Licensee shall personally deliver or mail his license to the Minnesota Board of Veterinary Medicine, c/o John King, D.V.M., Executive Director, 2829 University Avenue S.E., Suite 540, Minneapolis, Minnesota 55414.

4. Within 30 days of the date of this Stipulation and Order, Licensee shall submit to the Committee the dates, number of hours, and titles of all continuing education courses taken by Licensee in the two-year period preceding his last license renewal.

B. Removal of Suspension

5. Licensee may petition for removal of the suspended status. Licensee will have the burden of proving by a preponderance of the evidence that he is capable of practicing veterinary medicine in a fit and competent manner. At the time of Licensee's petition, Licensee shall meet with a Board Complaint Review Committee.

6. Licensee must meet all reregistration requirements in effect at the time of his petition for reinstatement, including but not limited to completing the appropriate application, paying the requisite fees, and completing any necessary continuing education requirements.

7. Licensee shall provide any additional information relevant to his petition reasonably requested by the Complaint Review Committee.

8. The Board may, at any regularly scheduled meeting following Licensee's petition for reinstatement pursuant to paragraph 11 above, take any of the following actions:

- a. Issue a license to practice veterinary medicine to Licensee;
- b. Issue a license to practice veterinary medicine to Licensee with limitations upon the scope of Licensee's practice and/or with conditions for Licensee's practice; or
- c. Deny Licensee's request for a license to practice veterinary medicine based upon his failure to meet the burden of proof.

VI.

CONSEQUENCES OF A VIOLATION

1. *Hearing Before the Board.* If the Committee determines that Licensee has violated any term or condition of this Stipulation and Order, the Committee may schedule a hearing before the Board and serve on Licensee a Notice of Hearing for Alleged Non-Compliance With Stipulation and Order ("Notice"), which sets forth the allegations against Licensee and provides Licensee notice of the date, time, and place of the hearing before the Board. The procedures set forth in paragraph 2 below shall apply to the hearing.

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

- a. *Response to Allegations in Notice.* At least seven days before the hearing, Licensee shall submit a written response to the allegations set forth in the Notice. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

b. *Hearing Before Board.* The Board shall hold a hearing before its own members in accordance with the procedures set forth in paragraph VI.B.3. below to determine whether the allegations are true and, if so, whether to take additional disciplinary action against Licensee, which may include any of the forms of disciplinary action set forth in Minn. Stat. § 156.127.

c. *Evidence at Hearing/Burden of Proof/Waiver of Hearing Before Administrative Law Judge.* At the hearing before the Board, the Committee and Licensee may present affidavits made on personal knowledge or authenticated 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 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 he intends to present at the hearing and shall serve a copy on the Committee at least seven days before the hearing. The Committee must prove by a preponderance of the evidence that 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.

d. *Costs.* If the Committee proves by a preponderance of the evidence that Licensee has violated this Stipulation and Order, the Board may require Licensee to pay costs of the proceedings. The costs of the proceedings may include the cost paid by the Board to the Office of the Attorney General for investigative and legal services, the cost of reproducing records and documents, Board staff time, travel costs and expenses, and Board members' per diem reimbursements, travel costs, and expenses.

3. *Statutory Procedures.* Nothing herein shall limit the Committee's right to attempt to resolve an alleged violation of this Stipulation and Order through the procedures of Minn. Stat. § 214.103, subd. 6, or to initiate a contested case proceeding under Minn. Stat. ch. 14 based on an alleged violation of this Stipulation and Order.

VII.

ADDITIONAL INFORMATION

1. 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.

2. 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.

3. 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.

4. Licensee shall be responsible for all costs incurred as a result of compliance with this Stipulation and Order.

5. 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 6 below.

6. 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.

7. This Stipulation and Order shall not limit the Board's authority to proceed against Licensee by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or omission of Licensee which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

VIII.

DATA PRACTICES NOTICES

1. This Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minn. Stat. § 13.41, subd. 4.

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



DUANE E. WYATT, D.V.M.

Licensee

Dated: 4-21-09, 2009

ORDER

Upon consideration of the Stipulation and all the files, records and proceedings herein, the terms of the Stipulation are approved and adopted, and the recommended remedy set forth in the Stipulation is hereby issued as an Order of this Board effective this 5 day of May, 2009.

MINNESOTA BOARD
OF VETERINARY MEDICINE



JOHN KING, D.V.M.
Executive Director

AG: #2407120-v2

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