

**BEFORE THE MINNESOTA  
BOARD OF VETERINARY MEDICINE**

In the Matter of  
Donna den Boer, D.V.M.  
License No. C2461

**STIPULATION AND ORDER**

**STIPULATION**

Donna den Boer, 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 advised by the Board's representatives

that she may choose to be represented by legal counsel in this matter. Licensee knowingly waived legal representation.

### 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. In March 2009, the Board received a complaint that Licensee failed to properly diagnose and treat a cat's tumor.

2. Licensee examined the cat on January 22, 2009, and informed the owner that she suspected squamous cell carcinoma. Licensee kept the cat at her clinic from January 23, 2009, until January 29, 2009, for the purpose of obtaining a biopsy. During this period, the cat lost three to four pounds. After returning home from the clinic, the cat's jaw was crooked and he was unable to eat.

3. On or about February 12, 2009, Licensee informed the owner the biopsy results showed the tumor was benign.

4. Upon Licensee's recommendation for additional procedures, the cat again stayed at Licensee's clinic from February 20, 2009, until February 25, 2009.

5. On February 25, 2009, the owner contacted the diagnostic laboratory and was informed that a sample received under the owner's name was diagnosed with squamous cell carcinoma. However, this report was for a different cat. The diagnostic laboratory did not have a biopsy report for the owner's cat.

6. When the owner arrived to collect her cat on February 25, 2009, Licensee informed the owner that she had not treated the cat. Upon inspection, the owner observed that her cat had five to six stitches in the same area of its jaw where Licensee had taken a biopsy in

January 2009 and had been shaved. When asked about the cat's condition, Licensee told the owner that she had taken a biopsy. Licensee also explained that she may have recently had a mini-stroke.

7. The cat was taken to a subsequent provider, who confirmed that he had squamous cell carcinoma with a poor prognosis.

8. On March 10, 2009, an inspection of Licensee's clinic revealed unsanitary conditions and substandard record keeping.

#### 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(3), (11), and (12), 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:

##### A. Suspension

1. 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.

2. Licensee shall surrender her license to the Board. Licensee shall personally deliver or mail her 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.

### B. Removal of Suspension

3. Licensee may petition for removal of the suspended status after she has complied with, at a minimum, the following:

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

b. Continuing Education. Licensee must submit to the Board evidence of successful completion of at least 40 hours of continuing education required under Minn. R. 9100.1000 for the renewal cycle ending February 28, 2009.

c. Record Keeping. Licensee must review and comply with the Board's record-keeping rules, Minn. R. 9100.0800, subp. 4.

d. Neuropsychological Evaluation. Licensee must undergo neuropsychological testing performed by a psychiatrist or licensed psychologist. Licensee shall submit, or cause to be submitted, the credentials of the evaluator for review and preapproval by Board staff for purposes of this evaluation. Licensee is responsible for the cost of the testing. The results shall be sent directly to the Board and shall provide and address:

- 1) Verification the evaluator has reviewed a copy of this Stipulation and Order;
- 2) Diagnosis and any recommended treatment plan;
- 3) Licensee's ability to manage any mental illness symptoms and stress;

4) Recommendations for additional evaluation or treatment;  
5) Recommendations for additional limitations or conditions regarding Licensee's practice; and

6) Any other information the evaluator believes would assist the Board in its ultimate review of this matter.

e. Practice Modifications. Licensee must remove all controlled drugs from her practice and purchase a patient scale.

f. Inspection. Licensee shall permit a Board member or Board designee to enter and inspect any clinic in which Licensee practices and to examine and, as deemed necessary by the inspector, to remove from the premises for review and copying Licensee's medical records for the purpose of determining her compliance with this Order. Entry and inspection under this part shall occur during normal business hours when Licensee or an agent of Licensee is on the premises, may occur with or without prior notice to Licensee, and may occur as many times during the effective period of this Order as the Board or Complaint Review Committee deems necessary.

g. Meeting With Committee. Licensee has the burden of proving by a preponderance of the evidence that she 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.

h. Additional Information. Licensee shall provide any additional information relevant to her petition reasonably requested by the Committee.

#### C. Limitations

4. The Board may at any regularly scheduled meeting following Licensee's petition for reinstatement, pursuant to paragraph 3 above, take the following action:

a. Continue the suspension of Licensee's license upon her failure to meet the burden of proof; or

b. Issue Licensee a license to practice veterinary medicine subject to conditions and limitations, including the following:

1) Licensee's practice of veterinary medicine must be limited to healthy exams, vaccinations and deworming.

2) Licensee must refer all emergency cases, cases requiring surgical procedures, and cases involving life-threatening conditions to another licensed veterinarian.

3) Licensee may not house animals overnight at her facility.

#### D. Removal of Limitations

5. Licensee may petition to have the limitations removed from her license at any regularly scheduled Board meeting, provided Licensee's petition is received by the Board at least 30 days before the Board meeting. At the time of Licensee's petition, Licensee will have the burden of proving by a preponderance of the evidence that she is capable of practicing veterinary medicine without limitations and has complied with the limitations above; however, Licensee's compliance with the limitations shall not create the presumption that the limitations should be removed. Upon consideration of the evidence submitted by Licensee or obtained through Board investigation, the Board may remove, amend, or continue the limitations imposed by this Order.

## 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.2.c. 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 she 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.

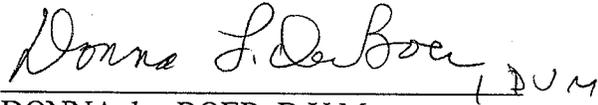
7. This Stipulation and Order shall not limit the Board's authority to proceed against Licensee by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or omission of Licensee which constitutes grounds for disciplinary action and which is not directly related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

  
DONNA den BOER, D.V.M.  
Licensee

Dated: April 29, 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

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