BEFORE THE MINNESOTA

BOARD OF VETERINARY MEDICINE

In the Matter of
Perry Burros-Lemke, D.V.M.
License No. 11998

STIPULATION AND ORDER

STIPULATION

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

I.

JURISDICTION

A. The Minnesota Board of Veterinary Medicine ("Board") is authorized pursuant to Minnesota Statutes chapter 156 to license and regulate veterinarians and to take disciplinary action as appropriate.

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

II.

COMPLAINT REVIEW COMMITTEE

The Complaint Review Committee is composed of Board members John Lawrence, D.V.M., and Michelle Vaughn, D.V.M. Benjamin R. Garbe, Assistant Attorney General, represents the Committee in this matter. Licensee was advised of his right to be represented by legal counsel and knowingly and voluntarily waived that right.

III.

FACTS

The parties agree this Stipulation and Order is based upon the following facts:

A. On August 11, 1998, Licensee was licensed by the Board to practice veterinary medicine in the State of Minnesota.

B. Minnesota Rule 9100.1000, subpart 5 mandates as follows:

> A. Thirty of the 40 required hours of continuing education credit must be obtained from interactive sources, such as lectures, seminars, wet labs, interactive television, or as a presenter of a continuing education topic or author of a referred journal article or contributing author for a recognized textbook.
>
> B. For self study, such as journal reading, audio/visual tape instruction, or other noninteractive study, three hours of study must be awarded one hour of continuing education credit. Not more than ten hours of continuing education credit from noninteractive sources must be accepted toward the 40-hour continuing education credit requirement for licensure renewal.
>
> C. Not more than ten hours of continuing education credit must be accepted for courses, seminars, or training sessions focused on practice management.

C. On July 17, 2012, in response to a 2012 continuing education audit, Licensee reported 41 hours of continuing education. However, none of the 41 hours were interactive, as required by Minnesota Rule 9100.1000, subpart 5.A.

IV.

LAWS

Licensee acknowledges the conduct described in section III. above constitutes a violation of Minnesota Statutes section 156.081, subd. 2(12) and Minnesota Rule 9100.1000, subpart 5.A., and justifies the disciplinary action described in section V. below.

V.

REMEDY

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

A. The Board **REPRIMANDS** Licensee.

B. The Board imposes a **CIVIL PENALTY** in the amount of $500 for the conduct described in section III. above. The civil penalty shall be paid by cashier's check or money order made payable to the Minnesota Board of Veterinary Medicine and shall be delivered personally or by mail to the Minnesota Board of Veterinary Medicine, c/o John King, D.V.M., Executive Director, 2829 University Avenue SE, Suite 540, Minneapolis, Minnesota 55414, within 60 days of the date of this Order.

C. Within six (6) months from the date of this Order, Licensee shall complete and provide documentation to the Board of his completion of 30 additional veterinary continuing education hours from interactive sources that are in compliance with Minnesota Rule 9100.1000, subpart 5.A. These hours will not count towards Licensee's next licensure period.

D. The Board, in its discretion, may audit Licensee's continuing education compliance for Licensee's next licensure period.

VI.

CONSEQUENCES OF A VIOLATION

A. *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.

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

1. *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.

2. *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 Minnesota Statutes section 156.127.

3. *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.

4. *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.

C. *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 Minnesota Statutes section 214.103, subdivision 6, or to initiate a contested case proceeding under Minnesota Statutes chapter 14 based on an alleged violation of this Stipulation and Order.

VII.

ADDITIONAL INFORMATION

A. Licensee knowingly and voluntarily waives a contested case hearing and all other procedures before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or rules.

B. Licensee knowingly and voluntarily waives any and all claims against the Board, the Minnesota Attorney General, the State of Minnesota, and their agents, employees and representatives related to the investigation of the conduct herein, or the negotiation or execution of this Stipulation and Order, which may otherwise be available to Licensee.

C. This Stipulation and Order, the files, records and proceedings associated with this matter shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

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

E. Licensee has read, understands, and agrees to this Stipulation and Order and has voluntarily signed the Stipulation and Order. Licensee is aware that this Stipulation and Order must be approved by the Board before it goes into effect. The Board may either approve the Stipulation and Order as proposed, approve it subject to specified changes, 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 below.

F. Licensee agrees that if the Board rejects this Stipulation and Order or a lesser remedy than indicated in this settlement, and this case comes again before the Board, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Order or of any records relating to it.

G. This Stipulation and Order does 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

A. This Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Data regarding this action will be provided to data banks as required by Federal law or consistent with Board policy. While this Stipulation and Order is in effect, information obtained by the Board pursuant to this Order is considered active investigative data on a licensed health professional, and as such, is classified as confidential data pursuant to Minnesota Statutes section 13.41, subdivision 4.

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

PERRY BURROS-LEMKE, D.V.M.
Licensee

Dated: 9-17, 2012

ORDER

Upon consideration of the Stipulation, the Board **REPRIMANDS** Licensee, imposes a **CIVIL PENALTY**, and adopts all of the terms described above on this 8 day of November, 2012.

MINNESOTA BOARD
OF VETERINARY MEDICINE

JOHN KING, D.V.M.
Executive Director

AG: #3072631-v1