BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE

In the Matter of
Nicole M. Dircks, D.V.M.
License No. 03707

STIPULATION AND ORDER

Nicole M. Dircks, 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
Minnesota Statutes chapter 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

3. The Committee was composed of Board members Mary Olson, D.V.M. and Jody
Grote. Rebecca Huting, Assistant Attorney General, represented the Committee.

III.

FACTS

4. The parties agree this Stipulation and Order is based upon the following facts:
A. On May 9, 2007, Licensee was licensed to practice veterinary medicine in Minnesota.

B. At all times relevant to these allegations, Licensee was a veterinarian practicing in multiple locations in Minnesota.

C. On December 1, 2018, Licensee renewed her veterinary license but failed to disclose an arrest for driving under the influence of alcohol during the license renewal period.

D. In December of 2019, Licensee diverted hydromorphone for self-use from a veterinary clinic where Licensee was employed.

E. On June 18, 2020, Licensee signed a Participation Agreement (Agreement) with the Minnesota Health Professionals Services Program (HPSP) after self-referral for the monitoring of a substance use disorder and a medical disorder.

F. On or about October 18, 2021, multiple concerns pertaining to Licensee’s behavior were reported to HPSP by Licensee’s worksite monitor.

G. On or about October 19, 2021, Licensee disclosed her return to alcohol use and diversion of buprenorphine, a controlled substance, from Licensee’s workplace for self-administration. HPSP informed the Board.

H. On November 10, 2021, Licensee met virtually with the Board’s Complaint Review Committee, Mary Olson, DVM and Jody Grote, public member, pursuant to a Notice of Conference to discuss her substance use disorder and noncompliance with Licensee’s Agreement with HPSP. Rebecca Huting, Assistant Attorney General, appeared on behalf of the Committee. Julia Wilson, DVM, Executive Director of the Board, was also present. Licensee was not represented.
IV.

LAWS

5. Licensee acknowledges that the facts and conduct described in section III above constitute violations of Minnesota Statutes sections 156.081, subdivision 2 (1), (3), (6), (11), (12) and (17); and Minnesota Rules 9100.0700, subparts (B), and (K); and 9100.0800, subpart (A) and are sufficient grounds for the remedy set forth below.

V.

DISCIPLINARY ACTION

Based on the foregoing facts and violations, the Board takes the following disciplinary action against Licensee:

6. The Board hereby SUSPENDS Licensee’s license to practice veterinary medicine. The suspension is STAYED so long as Licensee complies with the following CONDITIONS:

A. Within one month of the effective date of this Order, Licensee must submit documentation to the Board of all her veterinary continuing education for the most recent license renewal period, March 1, 2019 to February 28, 2021.

B. Licensee will be fully compliant with all terms and requirements of Licensee’s Agreement with HPSP.

7. Licensee may petition for an unconditional license to practice veterinary medicine no sooner than three years from the effective date of this Order. The burden of proof shall be upon Licensee at the time of her petition to demonstrate by a preponderance of the evidence that she has abstained from consuming alcohol or using non-prescribed controlled substances during the preceding 36 months and is capable of practicing veterinary medicine in a fit and competent manner. At the time of Licensee’s petition, she shall meet with a Complaint Review Committee to review her sustained sobriety and to discuss safeguards to diminish the risk of relapse.
VI.

CONSEQUENCES FOR NONCOMPLIANCE

8. If the Committee has probable cause to believe Licensee has failed to comply with or has violated any of the requirements for staying the suspension as outlined in paragraph 6 above, the Committee may remove the stayed suspension pursuant to the procedures outlined in paragraph 9 below, with the following additions:

A. If the HPSP discharges Licensee from the program for any reason other than Licensee’s successful completion of the terms of the Participation Agreement, there will be a presumption of a preponderance of the evidence that Licensee has failed to comply with the requirement(s) for staying the suspension.

B. The removal of the stayed suspension will take effect upon service of an Order of Removal of Stayed Suspension (“Order of Removal”). Licensee agrees that the Committee is authorized to issue an Order of Removal, which will remain in effect and will have the full force and effect of an order of the Board until the Board makes a final determination pursuant to the procedures outlined in paragraph 9 below. The Order of Removal will confirm the Committee has probable cause to believe Licensee has failed to comply with or has violated one or more of the requirements for staying the suspension of Licensee’s license. Licensee further agrees an Order of Removal issued pursuant to this paragraph will be deemed a public document under the Minnesota Government Data Practices Act. Licensee waives any right to a conference or hearing before removal of the stayed suspension.

C. The Committee will schedule the hearing pursuant to paragraph 9.a. below to be held within 60 days of the notice.
9. If Licensee fails to comply with or violates this Stipulation and Order, the Committee may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

A. The Committee shall schedule a hearing before the Board. At least 20 days before the hearing, the Committee shall mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Licensee shall submit a written response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

B. The Committee, in its discretion, may schedule a conference with Licensee prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

C. Prior to the hearing before the Board, the Committee and Licensee may submit affidavits and written argument in support of their positions. At the hearing, the Committee and Licensee may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Order. Unless stated otherwise in this Stipulation and Order, the Committee shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Licensee has failed to submit a timely response to the allegations, Licensee may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Licensee waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.
D. Licensee’s correction of a violation prior to the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board’s authority to impose discipline for the violation. A decision by the Committee not to seek discipline when it first learns of a violation will not waive the Committee’s right to later seek discipline for that violation, either alone or in combination with other violations, at any time while Licensee’s license is subject to conditions.

E. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board will dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including additional conditions or limitations on Licensee's practice, suspension, or revocation of Licensee's license.

F. Nothing herein shall limit the Committee’s or the Board’s right to temporarily suspend Licensee’s license pursuant to Minnesota Statutes section 156.126 based on a violation of this Stipulation and Order or based on conduct of Licensee not specifically referred to herein. Similarly, 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

10. 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.

11. 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.

12. 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.

13. Licensee shall be responsible for all costs incurred in order to comply with this Stipulation and Order.

14. 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.

15. 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.

16. 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

17. 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.

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

NICOLE M. DIRCKS, DVM
Licensee
Dated: 11/15/2021

JODY GROTE
Committee Public Member
Dated: 11/23/21
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 23rd day of November, 2021.

MINNESOTA BOARD
OF VETERINARY MEDICINE

JULIA H. WILSON, DVM.
Executive Director