BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE

In the Matter of
Mac A. Dudley, D.V.M.
License No. 00876

STIPULATION AND ORDER

STIPULATION

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

I.

JURISDICTION

A. The Minnesota Board of Veterinary Medicine ("Board") is authorized pursuant to Minn. Stat. ch. 156 (2008) 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.

CONFERENCE

C. On October 21, 2009, Licensee and his attorney, Scott Ballou, Brownson & Ballou, PLLP, 225 South Sixth Street, Suite 4800, Minneapolis, Minnesota 55402, appeared before the Committee, composed of Joanne Schulman, D.V.M., Board member, Sharon Todoroff, Board member, and John King, D.V.M., Executive Director of the Board, to discuss
allegations contained in a Notice of Conference With Board Complaint Review Committee dated
General, represented the Committee at the conference.

III.

FACTS

D. For the purposes of this Stipulation and Order, the Board may consider the
following facts as true:

1. On October 14, 2008, Licensee entered into an Agreement for Corrective
Action with the Committee after he failed to properly care for a cat presenting with lumbar spine
pain and failed to maintain sufficient medical records.

2. On March 11, 2009, Licensee sterilized two canines, a female
(“patient #1”) and a male (“patient #2”).

3. Preoperatively, Licensee’s employee inaccurately weighed the dogs.
Licensee’s employee also obtained temperatures rectally, using the same thermometer, without
sterilizing the thermometer or using a plastic barrier.

4. Licensee performed the sterilization procedures but did not maintain a
medical record of his operative procedure or surgical technique of the neuter procedure.
Licensee used glue to suture the incision sites.

5. The Committee determined that on March 12, 2009, both dogs’ incision
sites dehisced and the owner presented the dogs to Licensee that evening. Licensee examined
patient #1 and started suturing her wound without using any anesthesia, sedation, or pain relief.
Licensee did not sterilize the suture material or instruments before beginning the procedure.
After patient #1 yelped in pain, Licensee administered anesthetic. Licensee did not sterilize the needle before administering the anesthetic.

6. The Committee determined that Licensee also examined patient #2. As with patient #1, Licensee started suturing patient #2’s wound without using any anesthesia, sedation, or pain relief. Licensee used the same suture material and instruments for both dogs. Licensee did not sterilize the material or instruments before beginning the procedure. After patient #2 yelped in pain, Licensee administered anesthetic using the same contaminated needle he used to administer anesthetic to patient #1.

7. The Committee determined that patient #1’s suture was loose and the wound became infected. Patient #2’s suture was tight.

8. Licensee failed to maintain adequate medical records for patients #1 and #2, including the following deficiencies: no medical record for patient #1; documentation of a spay procedure for patient #2, a male dog; and incorrect dates for patient #2’s vaccination history and suture procedure.

9. Licensee failed to maintain a log of controlled substances in accordance with Drug Enforcement Agency requirements and Minn. R. 6800.9954.

IV.

LAWS

E. Although Licensee does not admit violating Minn. Stat. § 156.081, he acknowledges the conduct described in section III. above, if proven, would constitute a violation of Minn. Stat. § 156.081, subd. 2(11) and (12), and Minn. R. 9100.0200, subp. 4, 9100.0700, subp. 1, 9100.0800, and 6800.9954 (2007), and justifies the disciplinary action described in section V. below.
V.

DISCIPLINARY ACTION

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

1) Stayed Suspension

F. Licensee’s license to practice veterinary medicine in the State of Minnesota is SUSPENDED for two years from the date of this Order. The suspension is STAYED so long as Licensee complies with the following requirements:

1. Surgical Observation and Evaluation. Within 30 days from the date of this Order, Licensee shall observe surgical practice and demonstrate competency as follows:

   a. Personal Observation of Anesthesia and Surgical Procedures. Licensee shall observe a minimum of six (6) hours of anesthesia and surgical procedures, including the spay and neuter of canines, felines, and other animals, performed by doctors of veterinary medicine in a practice setting preapproved by the Committee. Licensee shall submit to the Committee documentation of his personal observation of anesthesia and spay and neuter surgical procedures as required by this Stipulation and Order.

   b. Performance of Spay and Neuter Procedures Under Direct Supervision. After Licensee has submitted acceptable documentation of his personal observation of surgical procedures, pursuant to paragraph 1.a. above, Licensee shall perform at his clinic two spay procedures, for either a canine or feline, and two canine neuter procedures, under the direct supervision of a Committee-approved veterinarian. The supervising veterinarian must submit a report to the Board regarding the overall quality of Licensee’s surgical performance and must identify concerns about Licensee’s surgical competence.
2. **Continuing Education in Pain Management and Anesthesia.** Within two (2) years of the date of this Order, Licensee must complete at least twenty (20) hours of continuing education in pain management and anesthesia after the date of this Order. Licensee shall submit the course outline(s) to the Committee for preapproval and shall cause the course provider to submit proof of Licensee’s completion of the courses directly to the Board. The continuing education must be completed at Licensee’s expense.

3. **Continuing Education in Surgical Practice.** Within two (2) years of the date of this Order, Licensee must complete at least twenty (20) hours of continuing education in surgical skills, including use of proper suture material, after the date of this Order. Licensee shall submit the course outline(s) to the Committee for preapproval and shall cause the course provider to submit proof of Licensee’s completion of the courses directly to the Board. The continuing education must be completed at Licensee’s expense.

4. **Continuing Education in Record Keeping.** Within one year of the date of this Order, Licensee shall submit to the Board evidence of successful completion of continuing education in record keeping. Licensee shall submit the course outline(s) to the Committee for preapproval and shall cause the course provider to submit proof of Licensee’s completion of the courses directly to the Board. The continuing education must be completed at Licensee’s expense.

5. **Licensee’s Patient Records.** During all times herein, Licensee shall maintain patient records that meet all requirements set forth in Minn. R. 9100.0800, subp. 4. Each of Licensee’s records shall specifically include the following:

   a. Licensee shall include a brief history of the animal’s condition.
b. Licensee shall include physical examination findings. Licensee may use physical examination stickers in patient records to comply with this requirement.

c. Licensee shall include the results of all presurgical screenings and other tests. If a client declines presurgical screening, Licensee shall so note in the patient record.

d. Licensee shall prepare a surgical report, including pain management, for each surgery he performs or shall maintain a book of his standard surgical procedures and shall note in the patient record that a routine surgery (e.g., “routine OHE”) was performed. Licensee shall prepare individual surgical reports in all cases in which complications occur, including the pain management techniques used.

e. For each hospitalized patient, Licensee shall include in the record daily examination findings and all treatments administered, including pain management techniques used.

f. Licensee shall permit the Committee or the Committee’s designee to perform on-site inspections of Licensee’s records to assess Licensee’s compliance with this Order. The inspections shall take place during regular business hours when Licensee is on the premises and may occur with or without notice to Licensee. Licensee shall permit the Committee or the Committee’s designee to review and copy client records in connection with an inspection. In lieu of entry and inspection, the Committee or Committee’s designee may forward a written request to Licensee to provide the Committee or Committee’s designee with copies of medical records by mail.

2) Removal of Stayed Suspension

G. Licensee may petition for removal of the stayed suspension at any regularly scheduled Board meeting one year from the date of this Order or following successful
completion of the requirements of paragraph F. above, whichever occurs later. Licensee's stayed suspension may be removed, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Licensee to demonstrate by a preponderance of the evidence that Licensee is capable of conducting himself in a fit and competent manner in the practice of veterinary medicine. Before petitioning for removal of the stayed suspension, Licensee shall meet with a Complaint Review Committee to review his petition and any evidence in support of the petition. The Board may, at any regularly scheduled meeting following Licensee's petition for removal of the stayed suspension, remove the stayed suspension, remove the stayed suspension with limitations placed upon the scope of Licensee's practice and/or conditional upon further reports to the Board, or continue the stayed suspension of Licensee's license based upon Licensee's failure to meet the burden of proof.

VI.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

H. It is Licensee's responsibility to ensure all reports, evaluations, and documentation required to be filed with the Board pursuant to this Stipulation and Order are timely filed by those preparing the report, evaluation, or documentation. Failure to file reports, evaluations, and documentation on or before their due date is a violation of this Stipulation and Order.

1) Noncompliance With Requirements for Stayed Suspension

I. 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 F. above, the Committee may remove the stayed suspension pursuant to the procedures outlined in paragraph J.1. below, with the following additions and exceptions:
1. The removal of the stayed suspension shall 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 shall remain in effect and shall 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 J. below or until the complaint is dismissed and the order is rescinded by the Committee. The Order of Removal shall 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 shall 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.

2. The Committee shall schedule the hearing pursuant to paragraph J.1. below to be held within 90 days of service of the Order of Removal.

2) Noncompliance With Stipulation and Order

J. 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 Minn. Stat. ch. 14 (2008) or by bringing the matter directly to the Board pursuant to the following procedure:

1. 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.

2. 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.

3. 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 Minn. Stat. ch. 14.

4. 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 suspended or the suspension is stayed.
5. 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 requirements for the stayed suspension, removal of the stayed suspension, an additional period of suspension, or revocation of Licensee's license.

6. Nothing herein shall limit the Committee's or the Board's right to temporarily suspend Licensee's license pursuant to Minn. Stat. § 148.262, subd. 3 (2008), 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 or the Board's right to automatically suspend Licensee's license pursuant to Minn. Stat. § 148.262, subd. 2 (2008).

VII.

ADDITIONAL INFORMATION

K. In the event Licensee should leave Minnesota to reside or to practice outside of the state, Licensee shall give the Board written notification of the new location, as well as dates of departure and return. Periods of residency and practice outside of Minnesota will not apply to the reduction of any period of Licensee's suspension or stayed suspension in Minnesota unless Licensee demonstrates that the practice in another state conforms completely with this Stipulation and Order. If Licensee leaves the state, the terms of this Order continue to apply unless waived in writing.

L. Within ten days of execution of this Stipulation and Order, Licensee shall provide the Board with the addresses and telephone numbers of Licensee's residence and all agencies or facilities and locations at which Licensee has become employed or performs volunteer veterinary medicine. Licensee shall inform the Board within ten days if he becomes employed at any
additional agencies or facilities or moves and shall provide the new or additional address and telephone number.

M. Within ten days of execution of this Stipulation and Order, Licensee shall provide the Board with the names of all states in which Licensee is licensed to practice or has applied for licensure as a veterinarian.

N. Licensee waives the 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.

O. Licensee waives any 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.

P. 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.

Q. Either party may seek enforcement of this Stipulation and Order in any appropriate civil court.

R. Licensee has read, understands, and agrees to this Stipulation and Order and has voluntarily signed the Stipulation and Order. Licensee is aware 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 the Board rejects the Stipulation and Order, it will be of no effect except as specified in the following paragraph.

S. 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.

T. 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 admission 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

U. This Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minn. Stat. § 13.41, subd. 5 (2008). 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 Minn. Stat. § 13.41, subd. 4 (2008).
V. This Stipulation contains the entire agreement between the parties, there being no
other agreement of any kind, verbal or otherwise, which varies this Stipulation.

Dated: 1/9/2010

MAC A. DUDLEY, D.V.M.
Licensee

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 9 day of

February 2010.

MINNESOTA BOARD
OF VETERINARY MEDICINE

JOHN KING, D.V.M.
Executive Director