

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

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

**FINDINGS OF FACT,
CONCLUSIONS,
AND FINAL ORDER**

The above-entitled matter came on for hearing at a regularly scheduled meeting of the Minnesota Board of Veterinary Medicine ("Board") on May 11, 2010, convened at 2829 University Avenue S.E., Fourth Floor, Conference Room A, Minneapolis, Minnesota 55414. The Board conducted a hearing pursuant to the procedure set forth in paragraph J.1. of the Stipulation and Order ("February 2010 Order") issued by the Board to Mac A. Dudley, D.V.M. ("Respondent"), on February 9, 2010. At the hearing, the Board Complaint Review Committee presented by affidavit evidence of Respondent's violations of the February 2010 Order. Respondent and his attorney, Scott Ballou, appeared before the Board and presented oral argument. Daphne A. Lundstrom, Assistant Attorney General, appeared and presented oral argument on behalf of the Board Complaint Review Committee. Board members Joanne Schulman, D.V.M., Sharon Todoroff, and John King, D.V.M., Executive Director of the Board, did not participate in deliberations and did not vote in the matter. Nathan W. Hart, Assistant Attorney General, was present as legal advisor to the Board.

FINDINGS OF FACT

The Board has reviewed the record of this proceeding and hereby issues the following Findings of Fact:

1. The Board is authorized pursuant to Minnesota Statutes chapter 156 to license, regulate, and discipline persons who apply for, petition, or hold licenses as veterinarians and is

further authorized pursuant to Minnesota Statutes section 214.10 and 214.103 to review complaints against veterinarians, to refer such complaints to the Attorney General's Office, and to initiate appropriate disciplinary action.

2. Respondent agreed to and signed the February 2010 Order. In paragraph J. of the February 2010 Order, Respondent expressly acknowledged and agreed to several procedures the Board Complaint Review Committee may use to resolve alleged noncompliance with or violation of the February 2010 Order, Minnesota Statutes section 148.262, or Minnesota Statutes chapter 14. The February 2010 Order remained in full force and effect at the time the conduct described in paragraph 5 below occurred.

3. Respondent expressly acknowledged and agreed in paragraph J. of the February 2010 Order that if Respondent violates the February 2010 Order, the Board Complaint Review Committee may seek additional disciplinary action.

4. Respondent expressly acknowledged and agreed in paragraph J.1. of the February 2010 Order that in the event the Board received evidence Respondent violated the terms of the February 2010 Order, Minnesota Statutes section 148.262, or Minnesota Statutes chapter 14, he would be notified of such allegations in writing and, following the opportunity to contest the allegations, the Board may impose additional disciplinary action against Respondent's license.

5. The Board received information Respondent violated the terms of the February 2010 Order and engaged in acts or omissions which would be a violation of Minnesota Statutes section 148.262 as follows:

a. Pursuant to paragraph 1)F., Respondent was required to demonstrate surgical competency within 30 days of the date of the February 2010 Order.

b. On March 5, 2010, the Committee granted Respondent a one-time, limited extension until March 26, 2010, to complete the requirements of paragraph F. of the February 2010 Order.

c. On February 25, 2010, Respondent personally observed anesthesia and surgical procedures for six hours, pursuant to paragraph F.1.a. of the February 2010 Order.

d. Under paragraph F.1.b., Respondent was required to identify and propose a supervising veterinarian, who would observe Respondent's surgical procedure and submit a report regarding the quality of Respondent's surgical performance, for Committee approval. The Committee approved a board-certified surgeon from the University of Minnesota College of Veterinary Medicine to be the supervising veterinarian.

e. On or about March 25, 2010, the Committee-approved veterinarian observed Respondent's performance of four surgical sterilization procedures. However, Respondent failed to demonstrate surgical competence when performing the ovariohysterectomy and neuter procedures as follows:

1) Respondent failed to adequately maintain, cap and flush surgical catheters.

2) Respondent failed to adequately monitor patients. Respondent left patients alone while intubated, without supplemental oxygen; Respondent's breathing monitor was not consistent in picking up all breaths; and Respondent failed to appropriately monitor respiration, heart rate, and other anesthetic monitoring parameters.

3) Respondent lacked appropriate equipment for anesthesia induction.

4) Respondent failed to maintain a proper plane of anesthesia for a surgical procedure. Respondent failed to recognize and manage anesthetic problems.

5) Respondent failed to appropriately prepare patients for surgery, including failing to perform industry-standard surgical scrubs on patients.

6) Respondent engaged in inappropriate surgical technique and tissue handling. Respondent failed to appropriately perform the 'three clamp technique' for ligating ovarian pedicles, uterine body, or testicular pedicles; Respondent failed to check for bleeding of the stumps in an appropriate manner; Respondent was rough on the tissues, especially the skin.

7) Respondent failed to use appropriate suture material and equipment for closure of the abdominal wall and skin.

8) Respondent demonstrated poor suturing technique.

9) Respondent failed to adequately recognize surgical asepsis.

6. On March 30, 2010, Respondent's attorney was served with a Notice of Removal of Stay of Suspension, Imposition of Suspension, and Hearing ("Notice") and Order of Removal of Stay of Suspension by first-class mail. The Notice informed Respondent of the alleged violations and of the date, time, and place of the hearing. The Notice also informed Respondent he was required to submit a response to the allegations in the Notice within ten days after the Notice was mailed. On April 7, 2010, the Board Complaint Review Committee granted Respondent's request for an extension until April 23, 2010. Respondent submitted a response on April 23, 2010.

7. The Board Complaint Review Committee had probable cause to remove the stay of suspension.

CONCLUSIONS

Based upon the foregoing Findings of Fact, the Board makes the following Conclusions:

1. The Board has jurisdiction in this matter pursuant to Minnesota Statutes sections 148.262, 148.262, subdivisions 2 and 3, and 156.081, subdivision 2(12).

2. The Board Complaint Review Committee gave proper notice of the alleged violations to Respondent, pursuant to paragraph J.1. of the February 2010 Order.

3. The Board Complaint Review Committee has the burden of establishing the statutory violations charged by a preponderance of the evidence.

4. The Board Complaint Review Committee has proved by a preponderance of the evidence that Respondent has violated Minnesota Statutes section 156.081, subdivision 2(11) and (12), 9100.0700, subpart 1, 9100.0800, and the February 2010 Order.

5. As a result of the violations set forth above and pursuant to the terms of the February 2010 Order, the Board has the authority to impose additional disciplinary action against Respondent's license to practice veterinary medicine.

ORDER

Based on the foregoing Findings of Fact and Conclusions, the Board issues the following Order:

1. NOW, THEREFORE, IT IS HEREBY ORDERED that the Stipulation and Order issued to Respondent on February 9, 2010, is hereby **RESCINDED** and shall have no future force or effect.

2. IT IS FURTHER ORDERED that Respondent's license to practice veterinary medicine in the State of Minnesota is hereby **CONDITIONED** and **LIMITED**, as follows:

a. Respondent is prohibited from engaging in any surgical practice until after complying with the conditions described in paragraphs 2) and 3) below.

b. Respondent may resume well-animal and general veterinary medical care only after successfully completing the following requirements, at Respondent's expense:

1) ***Companion Animal Disciplinary Examination.*** Prior to returning to any veterinary practice, Respondent must take and pass, within two attempts, the Companion

Animal Disciplinary Examination (“CADE”) sponsored by the National Board of Veterinary Medical Examiners (“NBVME”). The minimum passing score of the CADE is the NBVME’s recommended criterion-referenced passing point. If the CADE becomes unavailable during the time period referenced herein, the Committee may substitute another examination that Respondent must take and pass to fulfill the requirements of this paragraph.

2) ***Supervising Veterinarian.*** Respondent must identify a practice setting in which he has an on-site supervising veterinarian who practices in close physical proximity necessary to observe and monitor Respondent’s performance. The supervising veterinarian must ensure that Respondent practices in accordance with the conditions and limitations set forth herein. Respondent must meet in person with the supervising veterinarian every other week to review charts, pain management, recordkeeping, and patient care. The practice setting and supervisor must be approved in advance by the Committee.

3) ***Continuing Education.*** Respondent shall complete continuing education in recordkeeping. Respondent shall submit the course outline(s) to the Committee for preapproval and shall cause the course provider to submit proof of Respondent’s completion of the courses directly to the Board. The continuing education must be completed at Respondent’s expense.

3. IT IS FURTHER ORDERED that Respondent may practice indefinitely under the limitations set forth in paragraph 2 of this Order. However, should Respondent wish to resume a surgical practice, he may do so only after successfully completing the following requirements, at his expense:

a. ***Graduate Coursework.*** Respondent shall complete the following courses from the University of Minnesota-College of Veterinary Medicine:

1) *CVM 6663. Small Animal Surgery;*

- 2) *CVM 6664. Elective Small Animal Surgery; and*
- 3) *CVM 6494. Small Animal Anesthesia Advanced.*

The courses must be taken and passed for credit. Audited courses will not be accepted for purposes of satisfying the terms of this Order. Respondent shall cause the school to send directly to the Board office an official transcript documenting for the Committee that he received a passing grade in the course. The Committee may, in its discretion, approve alternate courses if the above courses become unavailable.

b. In consultation with a board-certified veterinary anesthesiologist, Respondent shall prepare written anesthetic and pain management protocols and shall submit the protocols to the Committee for approval.

c. In consultation with a board-certified veterinary surgeon, Respondent shall prepare written surgical protocols and shall submit the protocols to the Committee for approval.

4. IT IS FURTHER ORDERED that determination of successful completion of any requirement of this Order is at the discretion of the Committee. Respondent may not return to practice pursuant to the terms of either paragraph 2 or 3 until receiving written notification from the Committee.

5. IT IS FURTHER ORDERED that Respondent's violation of this Order shall constitute violation of a Board order for purposes of Minnesota Statutes section 156.081, subdivision 2(12), and provide grounds for further disciplinary action.

6. IT IS FURTHER ORDERED that Respondent may petition the Board for an unconditional license two years after resuming a surgical practice as set forth in paragraph 3 above. The Order may be issued, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Respondent to demonstrate by a preponderance of the evidence that he is capable of conducting himself in a fit and competent

manner in the practice of veterinary medicine. At the time of Respondent's petition, Respondent shall meet with the Committee to review his petition.

7. IT IS FURTHER ORDERED that the Board may, at any regularly scheduled meeting following Respondent's petition for an unconditional license and his meeting with the Committee, take any of the following actions:

a. Issue to Respondent an unconditional license to practice veterinary medicine.

b. Modify the conditions and limitations placed upon Respondent's license to practice veterinary medicine.

c. Continue the conditions and limitations of Respondent's license upon Respondent's failure to meet the burden of proof.

Dated: June 29, 2010

MINNESOTA BOARD
OF VETERINARY MEDICINE



JOHN LAWRENCE, D.V.M.
President

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