BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE

In the Matter of
Fonda M. Galbreath, DVM
License No. 02909

STIPULATION AND ORDER

STIPULATION

Fonda M. Galbreath, 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

3. On July 12, 2017 Licensee met with the Complaint Review Committee ("Committee"). The Committee was composed of Board members Ron Swiggum, DVM, and David Richter. Julia Wilson, D.V.M., Executive Director of the Board, and Candice Fleming, RPh, Associate Director for Compliance of the Minnesota Board of Pharmacy, were also present. Tiffany M. Sedillos, Assistant Attorney General, appeared on behalf of the Committee. Licensee was represented by Gordon Hansmeier, Esq.
III.

FACTS

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

a. At all times relevant to these allegations, Licensee was a veterinarian at Oakes Veterinary Service ("Clinic") in Oakes, North Dakota.

b. Between May 12, 2012 and January 17, 2017, Licensee provided veterinary services to 16 horses for which Licensee prescribed compounded oral omeprazole despite the availability of an FDA-approved formulation of this medication for horses.

c. Licensee failed to report the unlicensed pharmacist who illegally sold and dispensed compounded omeprazole and other medications to horse owners.

d. Licensee prescribed other extra label, compounded prescription medications, including injectable guanabenz, and powdered sucralfate, without noting that the products were compounded in the medical record or advising the horse’s owner of risks of compounded medications.

e. Licensee dispensed compounded injectable guanabenz, a medication not available in any FDA approved form. Licensee acknowledged guanabenz has not been documented to reduce exercise-induced pulmonary hemorrhage, nor did Licensee document this diagnosis in any of these horses. Guanabenz is a prohibited substance in many types of equine competitions as a result of its sedative effects and potential performance enhancement.

f. Licensee’s invoices were inaccurate for dispensed medications and rabies vaccines.
Licensee’s medical records lacked required components for the majority of the horses and most patient interactions. Omissions on multiple entries included:

1) date of examination;
2) medical history;
3) physical examination findings;
4) laboratory results;
5) copies of health certificates;
6) records of prescriptions to pharmacies;
7) copies of radiographs
8) tentative diagnosis;
9) treatment plan;
10) name and amount of medications
11) site and limb for intraarticular injections;
12) name and amount of controlled substances administered;
13) horse to which a medication was administered when the record contained information on more than one horse receiving services on the same day.

IV.

LAWS

5. Licensee acknowledges that the facts and conduct described in section III above constitute violations of Minn. Stat. § 156.081, subds. 2(4), (6), (11) and (12); Minn. Stat. § 156.18, subd. 1, 2, and 3; Minn. R. 9100.0700, subps. 1(A), (C) and (Q); and 9100.0800 subps. 1, 2, and 4; and are sufficient grounds for the remedy set forth below.
V.

DISCIPLINARY ACTION

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

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

6. Licensee shall pay to the Board a $2000 administrative penalty. Payment shall be sent to the Board of Veterinary Medicine c/o Julia Wilson, DVM, Executive Director, 2829 University Avenue S.E., Suite 401, Minneapolis, MN 55414, and is due no later than 60 days from the date of this Order.

7. Within one month from the date of this Order, Licensee must submit documentation of all of her veterinary continuing education from the most recent license renewal period, March 1, 2015 to February 28, 2017.

8. Within three months of the date of this Agreement, Licensee shall submit to the Committee evidence of completion of at least six (6) hours of continuing education on the topic of veterinary medical records and four (4) hours on the topics of moral, ethical, and legal decision-making, ethical relations between colleagues, the legal use of drugs and professional negligence. Licensee shall submit written documentation, such as measurable learning objectives and qualifications of the instructor, in order to receive preapproval from the Committee of classes Licensee takes in fulfillment of this requirement. For purposes of these requirements, the Committee preapproves the “Veterinary Medical Records Online Course” and sections 1, 3, 5, and 6 of the “Veterinary Law and Ethics Course” offered online by James F. Wilson, D.V.M., J.D., through Iowa State University.
9. Within twelve months of the date of this Agreement, Licensee shall submit to the Committee evidence of completion of at least seven (7) hours of interactive continuing education on the following topics:

1) Compounding of veterinary drugs including best practices and requirements for prescriptions and medication labels (4 hours). For purposes of this requirement, the Committee preapproves customized training by the Minnesota Board of Pharmacy. The training must be customized based on the facts of this Order. Any other individual expert identified for customized training must be preapproved by the Committee. The expert must receive a copy of the Order and provide written notice to the Committee that he or she has read the Order and is willing to provide this instruction. Licensee shall cause the expert to provide the Committee with a written report stating that Licensee has successfully completed the requisite training.

2) Equine gastric ulceration including diagnosis, treatment, and prevention (3 hours).

10. All continuing education courses must be preapproved by the Committee. Licensee must submit written documentation, such as title and schedule of the proposed continuing education and qualifications of the instructor, in order to receive preapproval from the Committee. Licensee’s courses will take in fulfillment of this requirement. The Committee will inform Licensee of its decision within fourteen (14) days of her request. These credit hours may not be counted towards Licensee’s next license renewal.

11. Within two (2) months of completion of medical records education requirements, Licensee will submit five (5) complete medical records, to include at least 3 cases for which Licensee provided spinal manipulative therapy and/or acupuncture therapy. For these three cases, Licensee will provide details of diagnostic assessments and therapy utilizing a standardized record sheet for those modalities. The Committee will specify the week from which the cases...
should be selected from the Licensee’s appointment schedule. The records must meet the approval of the Committee.

OTHER INFORMATION

Upon completing the requirements set forth in paragraphs 6 and 7, and no earlier than 18 months from the date of this Order, Licensee may petition for an unconditional license. At the time of Licensee’s petition, Licensee may be required to meet with the Board’s Complaint Review Committee to discuss her petition.

VI.

CONSEQUENCES FOR NONCOMPLIANCE

12. It is Licensee’s responsibility to ensure all documentation required to be filed with the Board pursuant to this Stipulation and Order is timely. Failure to file documentation on or before their due date is a violation of this Stipulation and Order.

13. If the Committee determines that the Licensee has failed 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 suspended or the suspension is stayed.

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 revocation of Licensee’s license.

f. 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.

g.  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.

VII.

ADDITIONAL INFORMATION

14.  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.

15.  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.

16.  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.

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

18.  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 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.

19. 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.

20. 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

21. 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.

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

Upon consideration of the Stipulation the Board hereby SUSPENDS Licensee’s licenses. The Board STAYS the suspension upon Licensee’s compliance with the requirements outlined in the Stipulation and adopts all other terms of the Stipulation on this 20th day of September, 2017.

MINNESOTA BOARD OF VETERINARY MEDICINE

JULIA H. WILSON, D.V.M.
Executive Director