BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE

In the Matter of
Garren J. Kelly, DVM
License No. 7803

STIPULATION AND ORDER

STIPULATION

Garren J. Kelly, DVM ("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

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 29, 2020, Licensee met with the Committee, composed of Board members Julie Dahlke, DVM, and Mary Olson, DVM. Kathleen Ghreichi, Assistant Attorney General, represented the Committee remotely. Robert Kuderer, Esq., represented Licensee. Julia Wilson, DVM, executive director of the Board, also participated in the teleconference. Nicole Vink, State Program Administrator, recorded the conference remotely.
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 Meadow View Vet Clinic, ("Clinic"), located at 6214 14th Street NW, in Byron, Minnesota.
   b. Beginning March 15, 2019, Licensee performed a series of dental cleanings, extractions, and gingival mass removal on Bree, a 9-year-old female Maine Coon cat, owned by K.Y.
   c. Licensee did not use available dental radiographic equipment or maintain dental charts for the procedures.
   d. Licensee’s poor dental skills resulted in tooth fractures just above the crowns, retained roots and fragments.
   e. Licensee did not inform Bree’s owner that teeth had been fractured and incompletely removed.
   f. Licensee removed healthy teeth unnecessarily to address firm swelling over Bree’s nose, which was due to neoplasia.
   g. Licensee did not offer referral to a veterinary specialist for Bree’s dental problems or neoplasia.
   h. Licensee’s mismanagement of Bree’s dental problems and neoplasia delayed definitive treatment, caused undue pain and suffering, and contributed to treatment failure by veterinary oncologists and Bree’s euthanasia.
IV.

LAWS

1. Licensee acknowledges the conduct described in section III. above constitutes a violation of Minnesota Statutes sections 156.081, subdivision 2(11) and (12) and Minnesota Rules 9100.0700, subparts 1(A), (B), and (C); and 9100.0800, subparts 1 and 4, and justifies the disciplinary action described in section V. below.

V.

DISCIPLINARY ACTION

The parties agree the Board may take the following disciplinary action:

1. 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 from the effective date of this Order, Licensee must submit documentation to the Board of all his veterinary continuing education for the most recent license renewal period, March 1, 2017 to February 28, 2019;

   B. Within three months from the date of this Agreement, Licensee shall submit to the Committee evidence of completion of at least six (6) credit hours of continuing education on the topic of veterinary medical records. For purposes of this requirement, the Committee preapproves the “Medical Record Keeping for Veterinarians,” an online course offered by Drip Learning Technologies. The credits from this continuing education may not be applied to the requirements for Licensee’s next license renewal.

   C. Within twelve months from the date of this Agreement, Licensee shall submit to the Committee evidence of completion of at least ten (10) credit hours of interactive
continuing education on the topic of small animal dentistry to include a hands-on wet lab focused on dental extractions (4 credits) and six (6) credits on other topics in small animal dentistry to include extractions and dental radiography. For the purposes of the wet lab, the Committee will pre-approve four hours of tutelage by a veterinary dentistry specialist (Diplomate of the American College of Veterinary Dentistry) during dental extractions performed by Licensee. The specialist must be presented the Order prior to the tutelage and must provide written notice to the Committee that she or he has read the Stipulation and is willing to provide this tutelage. Following the four hours of tutelage, Licensee shall cause the specialist to provide a report of the outcome of the tutelage and an assessment of Licensee’s ability to perform extractions. This continuing education must be pre-approved by the Committee. The credits from this continuing education may not be applied to the requirements for Licensee’s next license renewal.

D. Within one month of completion of the continuing education on medical records and for three subsequent quarters, Licensee will submit his appointment schedule for the preceding two months to the Committee. Licensee will provide complete medical records for three cases selected from his schedule for review by the Committee. At least one quarter must be after completion of the dental continuing education. The medical records must meet the Committee’s approval.

2. Upon completing the requirements set forth above, Licensee may petition for an unconditional license. Licensee’s petition may be granted, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof will be upon Licensee to demonstrate by a preponderance of the evidence that the suspension should be lifted.
VI.

CONSEQUENCES FOR NONCOMPLIANCE

3. It is Licensee's responsibility to ensure all payments, 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 payments, reports, evaluations, and documentation on or before their due date is a violation of this Stipulation and Order.

4. If the Committee has probable cause to believe that Licensee has failed to comply with any of the requirements for staying the suspension of his license as set forth in paragraph 1 above, the Committee may remove the stay of suspension and suspend Respondent's license pursuant to the procedures outlined below:

   a. 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 below, or until the suspension is dismissed and the order is rescinded by the Committee. The Order of Removal shall confirm that 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.

   b. 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 hearing before removal of the stayed suspension.
c. The Committee shall schedule a hearing before the Board to be held within 60 days of service of the Order of Removal. 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.

d. 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.

e. 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.

f. 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.

g. 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.

h. 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

5. 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.

6. 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.

7. 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.

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

9. 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.

10. 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.

11. 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

12. 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.

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

GARREN S. KELLY, DVM
Licensee
Dated: 9-18-2020

MICHAYA VAUGHN, DVM
Committee Member
Dated: 11/18/2020
ORDER

Upon consideration of the Stipulation, the Board accepts the SUSPENSION of Licensee's license, STAYS the suspension, and adopts all of the terms described above effective this 20th day of November, 2020.

MINNESOTA BOARD
OF VETERINARY MEDICINE

JULIA H. WILSON, DVM
Executive Director