

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
Kathryn E. Marr, D.V.M.
License No. 00286

STIPULATION AND ORDER

STIPULATION

Kathryn E. Marr, D.V.M. ("Licensee"), and the Minnesota Board of Veterinary Medicine Complaint Review Committee ("Committee"), composed of Joanne Schulman, D.V.M., Board Member, Michael Murphy, D.V.M., Board Member, and John King, D.V.M., Executive Director of the Board, agree that this 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 Minnesota Statutes chapter 156 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.

BACKGROUND

A. Following a thorough review of all available information, the Committee determined that this matter may be resolved by mail with a Stipulation and Order.

B. Daphne A. Lundstrom, Assistant Attorney General, represents the Committee. Licensee is represented by Robert E. Kuderer, Esq.

III.

FACTS

For purposes of Board of Veterinary Medicine proceedings only and without prejudice to Licensee in a proceeding in any other forum, the Board may consider the following as true:

A. Licensee has been licensed to practice veterinary medicine in the State of Minnesota since June 12, 1986.

B. Licensee owns and operates an independent small animal clinic.

C. On August 2, 2007, the Board referred Licensee to the Health Professionals Services Program (the "HPSP"). During her intake interview with the HPSP, Licensee reported prior use of narcotics for pain associated with physical injuries. Licensee worked the entire time she was using narcotics. Licensee admitted abusing narcotics and diverting liquid morphine from her clinic on one occasion. As of August 2, 2007, Licensee reported using two narcotic pills per day.

D. Licensee was admitted to inpatient chemical dependency treatment on August 13, 2007.

E. On August 13, 2007, Licensee returned enrollment materials to the HPSP. Licensee's Monitoring Plan with the HPSP identified a treatment focus of substance disorder and psychiatric disorder.

F. On September 7, 2007, Licensee was discharged from inpatient treatment with diagnoses of opioid dependence and alcohol dependence. Discharge recommendations included abstinence from all mood-altering chemicals and obtaining a sponsor.

G. On June 3, 2008, Licensee provided a urine sample that tested positive for ethylglucuronide ("EtG"). Licensee admitted to the HPSP that she had used alcohol but stated alcohol has never been a problem for her and that she does not have a sponsor. The HPSP gave

Licensee the option of temporarily ceasing practice or withdrawing from the HPSP. Licensee continued to practice, withdrew from the HPSP, and was unsuccessfully discharged from the program. The HPSP referred the matter to the Board.

IV.

LAWS

Licensee acknowledges that the facts and conduct described in section III above would, if proven at a hearing, constitute violations of Minn. Stat. § 156.081, subd. 2(3), (6), and (12), and are sufficient grounds for the remedy set forth below.

V.

REMEDY

- A. Licensee is **REPRIMANDED**.
- B. Licensee shall comply with all state and federal laws and rules governing the practice of veterinary medicine, including all laws and rules governing controlled substances.
- C. *Re-Enrollment in the HPSP.* Within two business days of the date of this Order, Licensee shall re-enroll in the HPSP. Licensee shall sign a Participation Agreement within the time period directed by the HPSP.
- D. *HPSP Compliance.* Licensee shall comply with and fulfill all terms and conditions of her HPSP Participation Agreement and Monitoring Plan and any amendments or modifications thereto, as determined by the HPSP including, but not limited to, all treatment and aftercare recommendations, monitoring requirements, and practice restrictions imposed by the HPSP. Noncompliance by Licensee with any term or condition of the HPSP Participation Agreement or Monitoring Plan or discharge by the HPSP before Licensee's successful completion of the Participation Agreement and Monitoring Plan shall constitute a violation of this Order.

E. ***Responsibility for Costs.*** Licensee is responsible for all costs associated with chemical dependency treatment, aftercare, alcohol/drug screens, and any other requirements of this Order or of the HPSP Participation Agreement and Monitoring Plan.

F. ***Waivers/Authorizations for Release.*** At any time while this Order is in effect and at the request of the Committee or its designee, Licensee shall complete and sign any waiver or authorization for the release of medical, chemical dependency, mental health, or other records in order to allow the Committee or its designee to discuss Licensee's case with, to release records and information to, and to obtain written evaluations and reports and copies of all of Licensee's medical, chemical dependency, mental health, or other records from any treatment facility, organization, physician, therapist, chemical dependency treatment provider, or other person from whom Licensee has sought or obtained treatment, support, or assistance.

VI.

CONSEQUENCES OF A VIOLATION

A. ***Hearing Before the Board.*** If the Committee determines that Licensee has violated any term or condition of this Stipulation and Order, the Committee may schedule a hearing before the Board and serve on Licensee a Notice of Hearing for Alleged Non-Compliance With Stipulation and Order ("Notice"), which sets forth the allegations against Licensee and provides Licensee notice of the date, time, and place of the hearing before the Board. The procedures set forth in paragraph VI.B. below shall apply to the hearing.

B. ***Hearing Procedures.*** The following procedures shall apply:

1. ***Notice of Hearing and Response to Allegations in Notice.*** At least 20 days before the scheduled hearing, the Committee shall serve the Notice on Licensee. At least seven days before the hearing, Licensee shall submit a written response to the allegations set forth in

the Notice. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

2. *Hearing Before Board.* The Board shall hold a hearing before its own members in accordance with the procedures set forth in paragraph VI.B.3 below to determine whether the allegations are true and, if so, whether to take additional disciplinary action against Licensee, which may include the suspension of Licensee's license or other disciplinary action authorized by Minn. Stat. § 156.127.

3. *Evidence at Hearing/Burden of Proof/Waiver of Hearing Before Administrative Law Judge.* At the hearing before the Board, the Committee and Licensee may present affidavits made on personal knowledge or authenticated documents and may present argument based on such evidence in support of their positions. The record before the Board shall be limited to such affidavits, documents and this Stipulation and Order. The Committee shall file with the Board all evidence it intends to present at the hearing and shall serve a copy on Licensee at least 14 days before the hearing. Licensee shall file with the Board all evidence she intends to present at the hearing and shall serve a copy on the Committee at least seven days before the hearing. The Committee must prove by a preponderance of the evidence that Licensee has violated this Stipulation and Order. The Board shall issue a final order within 30 days of the hearing. Licensee waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

4. *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.

C. *Statutory Procedures.* Nothing herein shall limit the Committee's right to attempt to resolve an alleged violation of this Stipulation and Order through the procedures of Minn. Stat. § 214.103, subd. 6, or to initiate a contested case proceeding under Minn. Stat. ch. 14 based on an alleged violation of this Stipulation and Order.

VII.

ADDITIONAL INFORMATION

A. 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.

B. 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.

C. 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.

D. Licensee acknowledges that she was represented by counsel in this matter.

E. 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 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 if the Board rejects the Stipulation and Order, it will be of no effect except as specified in paragraph VII.F.

F. 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.

G. 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 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

A. This Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minn. Stat. § 13.41, subd. 4.

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



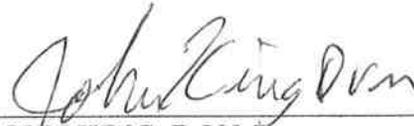
KATHRYN E. MARR, D.V.M.
Licensee

Dated: 10/3, 2008

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 4 day of Feb, 2007.

MINNESOTA BOARD
OF VETERINARY MEDICINE



JOHN KING, D.V.M.
Executive Director

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