

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
Daniel R. Milender, DVM
License No. 17900

STIPULATION AND ORDER

STIPULATION

Daniel R. Milender, 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 14, 2021, Licensee met remotely with the Committee, composed of Board members Steven Shadwick, DVM, and Michelle Vaughn, DVM. Allan M. Aguilar, Assistant Attorney General, represented the Committee. Julia H. Wilson, DVM, Executive Director of the Board, also participated in the conference. Nicole Vink, State Program Administrator, recorded the conference remotely.

4. On January 10, 2023, Licensee met with the Committee, composed of Board members Steven Shadwick, DVM, and Michelle Vaughn, DVM. Allan M. Aguilar, Assistant Attorney General, represented the Committee. Julia H. Wilson, DVM, Executive Director of the Board, also participated in the conference. Nicole Vink, State Program Administrator, recorded the conference remotely.

III.

FACTS

5. 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 Litchfield Veterinary Clinic (“Clinic”), located in Litchfield, Minnesota.
- b. On October 30, 2020, Licensee evaluated Bean, an approximately 8-year-old male Yorkshire Terrier, owned by L.W. Bean had severe degenerative arthritis of both hips.
- c. Licensee did not speak with the owner when the dog was dropped off at the clinic for the surgery and failed to review a note requesting that Licensee perform the scheduled femoral head ostectomy on the left hip first.
- d. Licensee failed to verify that the owner had signed the consent form.
- e. Licensee was unable to reach the owner after his evaluation.
- f. Licensee contacted the veterinary practice that referred Bean to Licensee’s clinic to verify which hip most needed the surgery. The referring veterinarian was unable to come to the phone but had staff relay the opinion that both hips were severely affected.
- g. Licensee chose to perform a right hip femoral head ostectomy.
- h. Licensee did not provide Bean’s complete medical record when it was first requested. When requested a second time, Licensee did not include all of the record components

of Bean's care before October 30, 2020, nor his subsequent care, which included surgery on the left hip on January 7, 2021.

i. Licensee's medical record lacked details of the surgery and anesthesia for the procedure as well as preoperative pressure plate measurements.

j. Licensee was 15 minutes late to the conference with the Committee.

k. Licensee's conduct during the conference was unprofessional, including belligerent behavior, vulgar language, and implied threats of retaliation against the Committee if some form of action was imposed.

l. On November 18, 2021, the Board approved a Stipulation and Order ("2021 Order"). The Order required Licensee to submit medical records for review after completion of specified continuing education courses.

m. On July 5, 2022, Licensee submitted three medical records for review that were not approved, lacking details of physical examinations, diagnoses, radiographic labeling, and client communication.

n. On October 26, 2022, Licensee submitted three medical records for review that were not approved due to similar deficiencies.

6. On June 3, 2022, Licensee evaluated Zoe, a 10-year-old female King Charles Cavalier Spaniel, for anorexia and lethargy three days after general anesthesia for a dental procedure.

a. Licensee failed to note abnormalities in preanesthetic blood work performed by a colleague that indicated possible renal disease.

b. Licensee attributed Zoe's illness to lingering effects of the anesthesia, and sucralfate was prescribed to promote eating and drinking.

c. On June 6, 2022, Licensee re-evaluated Zoe and found these serum abnormalities were significantly more elevated and suggestive of renal failure. Licensee did not perform a urinalysis to further investigate.

d. Licensee made a diagnosis of pancreatitis and hospitalized Zoe overnight for treatment but failed to inform her owner of the concurrent renal failure.

e. Licensee discharged Zoe the following day after observing a seizure and without medication to address further seizures. Zoe continued to seizure and died the following day.

f. Licensee's medical record for Zoe was insufficient.

g. On July 29, 2022, Licensee examined Duke, a 6-year-old male German Shepherd Dog owned by M.E. that had been previously seen by a colleague, to address progressively worsening weakness, vomiting, melena, and inappetence.

h. Licensee disagreed with his colleague's diagnosis of gastric ulcer and diagnosed inflamed intestines as the primary disease and source of melena on the basis of abdominal auscultation only.

i. Licensee prescribed dexamethasone, a corticosteroid that is contraindicated in a patient with melena.

j. Licensee's medical record was insufficient.

7. On June 7, 2022, Licensee incompletely evaluated Reba, an 11-year-old female Labrador Retriever owned by P.K., for signs of regurgitation and cough.

a. Licensee assessed Reba as healthy, provided vaccinations and prescribed gabapentin, carprofen, and omeprazole.

b. On June 28, 2022, Licensee re-evaluated Reba for signs of worsening cough, difficulty swallowing, and regurgitation and informed her owner that neoplasia was most likely.

c. Licensee also diagnosed laryngeal paralysis but failed to record this in the medical record.

d. Licensee did not offer radiography or other diagnostic testing.

e. Licensee failed to diagnose the cause of Reba's illness, megaesophagus, which was readily diagnosed via radiography at another veterinary clinic.

f. Licensee's medical record was insufficient, failing to list all abnormal physical examination findings and diagnoses.

IV.

LAWS

8. Licensee acknowledges the conduct described in section III. above constitutes a violation of Minnesota Statutes sections 156.123 and 156.081, subdivision 2(11) and (12); and Minnesota Rules 9100.0700, subpart 1(A) and (B)); and 9100.0800, subparts 1 and 4, and justifies the disciplinary action described in section V. below.

V.

DISCIPLINARY ACTION

9. Based on the foregoing facts and violations, the Board takes the following disciplinary action against Licensee:

a. The 2021 Order issued to Licensee on November 18, 2021, is hereby **RESCINDED** and shall have no future force or effect.

b. The Board **REPRIMANDS** Licensee.

c. 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, 2018, to February 28, 2020. This requirement is completed.

d. Within three months from the date of this Order, 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 “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. This requirement is completed.

e. Within six months from the date of this Order, Licensee shall submit to the Committee evidence of completion of at least four (4) credit hours of interactive continuing education on canine digestive tract diseases to include the topics of diagnosis and treatment of megaesophagus and melena. The continuing education must be preapproved by the Committee and may not be applied to the requirements for Licensee’s next license renewal.

f. Within three (3) months of the adoption of this Order and for three (3) subsequent quarters, Licensee will submit his appointment schedule for the preceding three (3) months to the Committee. Licensee will provide complete medical records, including imaging files for four (4) patients selected from his schedule for review by the Committee. The patients selected will be surgical and/or sick patients. The medical records must meet the Committee’s approval.

10. 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

11. 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. The Board's address is Minnesota Board of Veterinary Medicine, c/o Julia H. Wilson, Executive Director, 335 Randolph Avenue, Suite 215, St. Paul, Minnesota 55102.

12. 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 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 Order is in effect.

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 additional requirements, suspension or revocation of Licensee's license.

f. 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

13. 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.

14. 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.

15. 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.

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

17. 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.

18. 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.

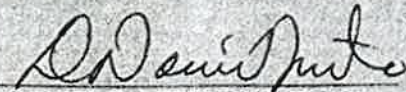
19. This Stipulation and Order does not limit the Board's authority to proceed against Licensee by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or omission of Licensee which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

VIII.

DATA PRACTICES NOTICES

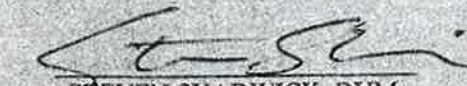
20. This Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Data regarding this action will be provided to data banks as required by Federal law or consistent with Board policy. While this Stipulation 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.

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



DANIEL R. MILENDER, DVM
Licensee

Dated: 14 July 2023



STEVEN SHADWICK, DVM
Committee Member

Dated: 3/29/23

ORDER

Upon consideration of the Stipulation, the Board accepts and adopts all the terms described above effective this 29th day of March, 2023.

MINNESOTA BOARD
OF VETERINARY MEDICINE



JULIA H. WILSON, DVM
Executive Director

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