

STATE OF MINNESOTA
BOARD OF VETERINARY MEDICINE

In the Matter of
Joyce Murphy (Unlicensed)

**CEASE AND DESIST ORDER AND
NOTICE OF RIGHT TO HEARING**

TO: Joyce Murphy ("Respondent"), Faribault Animal Center, 550 Wilson Avenue, Suite 101,
Faribault, MN 55021 and 9710 Dodd Road, Kilkenny, MN 56052.

1. Minnesota law prohibits any person from practicing veterinary medicine without having first secured a veterinary license or temporary permit, as provided in Minnesota Statutes chapter 156, unless the person is exempt from such licensing requirements.

2. The practice of veterinary medicine is defined in Minnesota Statutes section 156.12, subdivision 1, as follows:

[T]he diagnosis, treatment, correction, relief, or prevention of animal disease, deformity, defect, injury, or other physical or mental conditions; the performance of obstetrical procedures for animals, including determination of pregnancy and correction of sterility or infertility; and the rendering of advice or recommendations with regard to any of the above. The practice of veterinary medicine shall include but not be limited to the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique.

3. Minnesota Statutes section 156.12, subdivision 3, provides that "[a]ny person who sells or offers to apply any prescription drug, biologic preparation, including sera, vaccines, bacterins, tuberculin, mallein, johnin, or any other agent for the treatment, vaccination, or testing of any animal belonging to another" is engaged in the practice of veterinary medicine.

4. The Minnesota Professional Firms Act, Minnesota Statutes chapter 319B, permits the formation of professional firms to practice certain specified professions, including veterinary medicine. Each of the professional firm's owners must meet the requirements of section 319B.07. *See* Minn. Stat. § 319B.06, subd. 1(a)(2). Ownership interests in a professional firm

may not be owned or held, either directly or indirectly, except by professionals who, without respect to at least one category of the pertinent professional services, are licensed and not disqualified. *See* Minn. Stat. § 319B.07, subd. 1(1). Additionally, a professional firm's governance authority must rest with one or more professionals, each of whom is licensed to furnish at least one category of the pertinent professional services. *See* Minn. Stat. § 319B.09, subd. 1(a). Finally, no professional firm may furnish professional services in Minnesota until the firm files with each Board having jurisdiction over the pertinent professional services. *See* Minn. Stat. § 319B.11, subd. 3(a).

5. Minnesota Statutes section 156.11(a) provides as follows:

It is unlawful in Minnesota for any firm, other than one organized pursuant to chapter 319B, to practice veterinary medicine, or to hold itself out or advertise itself in any way as being entitled to practice veterinary medicine, or to receive compensation derived from the practice of veterinary medicine or the performance of veterinary services by any person, whether that person is licensed to practice veterinary medicine or not. Any firm violating the provisions of this section is guilty of a gross misdemeanor and must be fined not more than \$3,000 for each offense. Each day that this section is violated is a separate offense.

6. The Board, through the Minnesota Attorney General, may institute proceedings in district court for violations of Minnesota Statutes chapter 319B. The Board may seek reprimand, restrictions, conditions, involuntary rescission, dissolution or revocation of the professional firm. The Board may also bring an action in district court for injunctive relief to restrain unauthorized practice or violation of threatened violation of its statutes and rules pursuant to Minnesota Statutes section 214.11. The Board may also refer any case involving a person who appears to be practicing veterinary medicine without a license and/or is in violation of chapter 319B and section 156.11(a) to local authorities for criminal prosecution.

7. Pursuant to the above-referenced statutes, the Minnesota Board of Veterinary Medicine ("Board"), by its Complaint Review Committee ("Committee"), has determined the following:

a. Joyce Murphy ("Respondent") is not currently and never has been licensed to practice veterinary medicine in the State of Minnesota and is not exempt from the licensure requirements set forth in Minnesota Statutes chapter 156.

b. In January 2011, the Board received information that Respondent was providing veterinary medical services at the Faribault Animal Center in Faribault, Minnesota ("the Center"), including diagnosing/treating animals and administering rabies vaccines.

c. On April 12, 2011, the Board's Executive Director and an investigator from the Minnesota Attorney General's Office conducted an on-site inspection of the Center as part of the Board's investigation. During the inspection, the following occurred:

1) Respondent was observed administering injections to a dog. No veterinarian was on the premises.

2) Respondent admitted both she and Albert Batchelder, D.V.M. own the Center.

3) Respondent stated the Center provides the following veterinary services: testing for heartworm and Lyme disease; issuing canine health certificates; administering vaccinations for rabies and distemper; prescribing medications for heartworm, ear infection, Lyme disease, and thyroid disease; and euthanizing animals.

4) Respondent stated Dr. Batchelder had been in a rehabilitation center since December 2010. Respondent indicated Dr. Batchelder had not been treating animals for several months.

5) Respondent admitted that during Dr. Batchelder's absence, she administered vaccinations for rabies and distemper, completed testing for heartworm and Lyme disease, dispensed medications for heartworm and Lyme disease, and euthanized animals with intravenous controlled substances. Respondent admitted she last euthanized an animal the week of April 4, 2011.

6) Respondent admitted she stamped rabies certificates and wrote Dr. Batchelder's name on them during Dr. Batchelder's absence.

7) Respondent admitted she ordered drugs for the Center from several vendors using Dr. Batchelder's information during Dr. Batchelder's absence.

8) During the inspection, numerous prescription drugs were observed at the Center, including Amoxitabs, Dexamethasone, Cefa-drops, Vitamin K1, Lidocaine solution, Gentamycin solution, Rabies vaccine, Canine and feline distemper vaccine, Kennel cough vaccine, West Nile virus vaccine (equine), Tresaderm, Heartworm Prevention (Iverheart plus), Zithromax, Metronidazole, Sleep away (euthanasia solution), and Phenobarbital.

9) A representative from the U.S. Drug Enforcement Administration ("DEA") confirmed that Dr. Batchelder has not had a valid DEA certificate since February 2007.

8. Respondent, by the conduct referenced in paragraph 7 above, has engaged in and threatens to continue to engage in the practice of veterinary medicine in Minnesota without a license, in violation of Minnesota Statutes section 156.10, and should be ordered to cease and desist from violating this statute.

9. Respondent, by the conduct referenced in paragraph 7 above, has violated Minnesota Statutes chapter 319B and section 156.11(a), and should be ordered to cease and desist from violating these statutes.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Minnesota Statutes section 156.15, Respondent must cease and desist from engaging in any act or practice in Minnesota that constitutes the practice of veterinary medicine as defined in Minnesota Statutes section 156.12, subdivision 1.

IT IS FURTHER ORDERED, pursuant to Minnesota Statutes section 156.11 and chapter 319B, Respondent must cease and desist from the unlicensed ownership of a veterinary practice.

IT IS FURTHER ORDERED, pursuant to Minnesota Statutes section 156.15, subdivisions 1 and 3, that Respondent may request a hearing in this matter. Such request shall be made in writing and delivered to the Complaint Review Committee of the Minnesota Board of Veterinary Medicine, 2829 University Avenue SE, Suite 540, Minneapolis, MN 55414, whereupon the Committee shall set a date for hearing within 30 days after its receipt of the request unless Respondent and the Committee by agreement waive the 30-day time period. Pursuant to Minnesota Statutes section 156.15, subdivision 4, if no hearing is requested by Respondent within 30 days of service of this Order, this Order will become final and will remain in effect until it is modified or vacated by the Board.

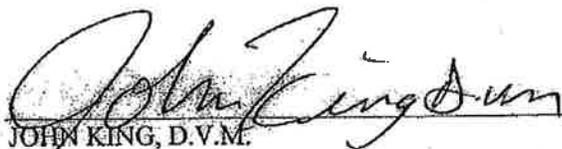
IT IS FURTHER ORDERED that if a hearing is requested, this Order will remain in effect until it is modified or vacated or made permanent by further order of the Board pursuant to Minnesota Statutes section 156.15, subdivision 4.

IT IS FURTHER ORDERED that in the event a hearing is requested in this matter, it will be held before an administrative law judge to be appointed by the chief administrative law judge for the State of Minnesota, Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101, telephone (651) 361-7900. All parties have the right to represent themselves or to be represented throughout the proceedings herein by legal counsel or a person of their choice if not otherwise prohibited as the unauthorized practice of law. The hearing will be conducted pursuant to the contested case procedures as prescribed in Minnesota Statutes sections 14.57 to 14.69 and the Rules of the Office of Administrative Hearings, Minnesota Rules 1400.5100 to 1400.8400. Failure to attend a hearing in this matter after being duly notified may result in the allegations of this Order being taken as true. Questions concerning the issues raised in this Order, informal disposition of this proceeding, or discovery may be directed to Karen B. Andrews, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101-2131, telephone (651) 757-1406.

Dated: April 29, 2011

BOARD OF VETERINARY MEDICINE
Complaint Review Committee

By:


JOHN KING, D.V.M.
Executive Director

2829 University Avenue SE, Suite 540
Minneapolis, MN 55414