

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
Denise I. Nelson, D.V.M.
License Number: 03890

STIPULATION AND ORDER

STIPULATION

Denise I. Nelson, D.V.M. (“Licensee”), and the Minnesota Board of Veterinary Medicine (“Board”), by its 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 Board is authorized pursuant to Minnesota Statutes sections 156.001 to 156.20 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.

CONFERENCE

3. On February 11, 2014, Licensee met with the Complaint Review Committee. The Committee was composed of Board members Sharon Todoroff and Barbara Fischley, D.V.M. Dr. Fischley appeared by telephone. Julia Wilson, D.V.M., Executive Director of the Board, was also present. Bryan D. Huffman, Assistant Attorney General, appeared on behalf of the Committee.

III.

FACTS

4. Licensee was issued a license to practice veterinarian medicine in Minnesota on or about June 16, 1990.

5. Licensee was employed as a veterinarian by a clinic in Minnesota ("Clinic") at all times relevant to these facts.

6. Licensee prescribed Tussigon (hydrocodone), a Class III controlled substance, for friends' pets. These friends had been longtime clients of the Clinic and their pets had existing files at the Clinic. Licensee recorded these prescriptions in the controlled substance log and in the client's file.

7. Licensee repeatedly prescribed large quantities of Tussigon for her own dog. However, she did not record these prescriptions in the controlled substance log.

8. Licensee admitted to diverting Tussigon from the Clinic for her personal use.

9. Licensee has suffered from chronic back pain since 1979. She has been in treatment for her pain and related hydrocodone use. Licensee voluntarily began seeing a licensed drug and alcohol counselor ("LADC"), to address her pain and hydrocodone use. At the suggestion of the LADC, Licensee was evaluated by an addiction specialist who diagnosed Licensee with Opiate Abuse Rule Out Dependency. The addiction specialist recommended that Licensee obtain a pain analysis at a Twin Cities clinic. Licensee states that she was seen at the Twin Cities clinic and received a referral for physical therapy, which she completed.

IV.

LAWS

10. Licensee acknowledges that the facts and conduct described in section III above constitute violations of Minn. Stat. § 156.081, subd. 2(3), (6), and (12). Licensee further

acknowledges that the facts and conduct described in section III above constitute violations of Minn. R. 9100.0700, subp. 1(A), (B), (C), (J), and (L), and Minn. R. 9100.0800, subp. 2(C).

Accordingly, Licensee acknowledges that there are sufficient grounds for the remedy set forth below.

V.

DISCIPLINARY ACTION

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

11. The Board **SUSPENDS** Licensee's license to practice veterinary medicine in the State of Minnesota for a period of no less than 3 months. During the period of suspension, Licensee may not engage in any conduct which constitutes the practice of veterinary medicine as defined by Minn. Stat. § 156.12. Licensee may not imply to any persons by words or conduct that she is authorized to practice veterinary medicine in the State of Minnesota.

12. Licensee must surrender her veterinary license to the Board. Licensee must personally deliver or mail her license to the Board of Veterinary Medicine c/o Julia Wilson, D.V.M., Executive Director, 2829 University Avenue S.E., Suite 401, Minneapolis, Minnesota 55414, within ten days of the date of service of this Order.

13. Licensee may petition for reinstatement of her veterinary license no sooner than 3 months from the date of this Order. Licensee's license may be reinstated, 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 she is capable of conducting herself in a fit and competent manner in the practice of veterinary medicine and has been sober and free from non-prescribed all mood-altering chemicals during the 3 months immediately preceding the petition for reinstatement. Additionally, Licensee may take any prescribed medications in accordance with her provider's orders and recommendations.

14. At the time of Licensee's petition, Licensee may be required to meet with the Board's Complaint Review Committee to discuss her petition and provide documentation of 3 months of uninterrupted sobriety. The Committee will make a recommendation to the full Board, which will make a decision as discussed below. At a minimum, Licensee must submit the following in an effort to demonstrate 3 months of uninterrupted sobriety:

a. Self-Report. Licensee must submit a report from herself to the Board. The report must be submitted at the time Licensee petitions for reinstatement of her license. The report must provide and address:

1) Licensee's pain management protocol and her use all prescribed medications during the 3 months immediately preceding her petition;

2) Licensee's treatment and participation in a chemical dependency rehabilitation program, if recommended by any of her treatment providers. This report must include Licensee's documented weekly attendance at a chemical dependency support group such as Narcotics Anonymous during the 3 months preceding the petition; evidence of participation must include, but need not be limited to, attendance sheets on a form provided by the Board that have been legibly signed or initialed and dated by a participant who attended the weekly meeting;

3) Licensee's physical and mental health status, treatment plan, medications, and compliance with treatment;

4) Licensee's work schedule;

5) Licensee's future plans in veterinary medicine and the steps she has taken to prepare herself to return to practice; and

6) Any other information Licensee believes would assist the Board in its ultimate review of this matter.

b. Reports Verifying Sobriety. Licensee must cause two adult persons to submit reports to the Board attesting to Licensee's sobriety from all non-prescribed mood-altering chemicals. At least one of the adult persons must be unrelated to Licensee by blood or marriage. These reports must be submitted at the time Licensee petitions for reinstatement of her license. Each report shall provide and address the following:

1) Licensee's regular participation in a chemical dependency support group such as NA or other structured chemical dependency rehabilitation program, if recommended by any of her treatment providers;

2) Licensee's sobriety, including the date she last used mood-altering chemicals, including alcohol; and

3) Any other information the reporter believes would assist the Board in its ultimate review of this matter.

c. Report From Employer. Licensee must cause her employer, if any, to submit a report to the Board. The report must be submitted at the time Licensee petitions for reinstatement of her license. The report must provide and address the following:

1) Licensee's sobriety from all non-prescribed mood-altering chemicals;

2) Licensee's ability to perform assigned tasks;

3) Licensee's attendance and reliability;

4) Licensee's ability to handle stress;

5) Licensee's typical work schedule; and

6) Any other information the employer believes would assist the Board in its ultimate review of this matter.

d. Report From Health Care Professionals. Licensee must cause any health care professional whom she consults for physical health, mental health, chemical dependency treatment, or pain management while this Stipulation and Order is in effect to submit a report to the Board. The reports must be submitted at the time Licensee petitions for reinstatement of her license. The report must provide and address the following:

1) Verification the health care professional has reviewed this Stipulation and Order;

2) Identification of diagnoses and any plans of treatment, including medications, devised for Licensee;

3) A statement of the involvement between Licensee and the health care professional, including the number and frequency of meetings;

4) Licensee's progress with therapy and compliance with the treatment plan;

5) A statement regarding Licensee's mental health status;

6) A statement regarding Licensee's sobriety;

7) Recommendations for additional treatment, therapy, or monitoring;

and

8) Any other information the health care professional believes would assist the Board in its ultimate review of this matter.

e. Report of Prescribed Mood-Altering Chemicals. Licensee must cause any and all physicians, dentists, and other authorized health care professionals who have prescribed mood-altering chemicals for Licensee during the period this Stipulation and Order is in effect to submit a report to the Board. Each report is due at the time of petition and must provide and address the following:

1) The name, dosage, frequency, and purpose of the mood-altering chemicals for Licensee;

2) Confirmation the physician, dentist, or other health care professional has been informed of Licensee's chemical dependency history; and

3) Any other information the reporter believes would assist the Board in its ultimate review of this matter.

f. Criminal Matters. Should any criminal proceedings ensue, Licensee must demonstrate to the Board that she has satisfied any conditions levied by the court(s). If Licensee is placed on court-ordered probation, she must cause her probation officer to submit a report to the Board upon petitioning for reinstatement of her license. The report should address whether Licensee fully complied with the terms of her probation.

g. Chemical Dependency Evaluation. Within 60 days of petitioning, if requested by the Committee, Licensee must undergo a chemical dependency evaluation performed by a chemical dependency treatment professional. Licensee must submit, or cause to be submitted, the credentials of the chemical dependency evaluator for review and preapproval by Board staff for purposes of this evaluation. The results of the evaluation must be sent directly to the Board and must include a statement verifying the evaluator has reviewed this Stipulation and Order. Licensee must promptly comply with any recommendations for additional evaluation and treatment made by the chemical dependency evaluator.

h. Pain Management Evaluation. Within 60 days of petitioning, if requested by the Committee, Licensee must undergo a pain management evaluation with a physician specializing in the treatment of chronic pain. Licensee must submit, or cause to be submitted, the credentials of the evaluator for review and preapproval by Board staff for purposes of this evaluation. The results of the evaluation must be sent directly to the Board and must include a

statement verifying the evaluator has reviewed this Stipulation and Order and any evaluation and/or treatment records deemed pertinent by the Board or the evaluator prior to the evaluation. The evaluation must include diagnoses and recommended treatment plan, recommended medication plan, and any further evaluations or treatment recommended by the evaluator. Licensee must promptly comply with any recommendations for additional evaluation and treatment made by the chemical dependency evaluator.

i. Return to Work Evaluation. Within 60 days of petitioning, if requested by the Committee, Licensee must undergo a pain management evaluation with an occupational therapist to determine whether her chronic pain impacts her ability to practice veterinary medicine safely. Licensee must submit, or cause to be submitted, the credentials of the occupational therapist for review and preapproval by Board staff for purposes of this evaluation. The results of the evaluation must be sent directly to the Board and must include a statement verifying the occupational therapist has reviewed this Stipulation and Order and any evaluation and/or treatment records deemed pertinent by the Board or the evaluator prior to the evaluation. The evaluation must include an opinion regarding Licensee's ability to safely practice veterinary medicine, along with diagnoses and recommended treatment plan, and any further evaluations or treatment recommended by the evaluator. Licensee must promptly comply with any recommendations made by the occupational therapist.

j. Random Alcohol and Drug Screens. At any time during the petition process, the Board may direct Licensee, without prior notice, to submit to laboratory hair, blood, and urine screenings to determine the presence or absence of alcohol or drugs. The Board may contact Licensee by telephone, letter, or through personal contact by an agent to direct her to submit to the tests. Licensee shall provide the directed specimen, using a collection site and process approved by the Board not later than 6:00 p.m. on the day she is contacted by the Board.

Licensee must abstain from substances known to interfere with the toxicology screening process, including but not limited to certain foods, beverages, over-the-counter medications, and other products that contain poppy seeds, hemp seeds, and ethyl alcohol. Examples include but are not limited to nonalcoholic beer or wine; some desserts, salad dressings, soups, and herbal remedies; and hand-sanitizing and mouthwash products. Licensee shall arrange with her employer for release from work for purposes of fulfilling the requirements of the laboratory screening. The specimens must be handled through legal chain-of-custody methods and tested at a facility approved by the Board. The results of the screens must be reported directly to the Board. Licensee is responsible for the cost of the screens.

k. Waivers. If requested by the Board at any time during the petition process, Licensee must complete and sign health records waivers and chemical dependency treatment records waivers supplied by the Board to allow representatives of the Board to discuss Licensee's case with and to obtain written evaluations and reports and copies of all of Licensee's health, mental health, or chemical dependency records from her physician, mental health treatment professional/therapist, chemical dependency counselor, or others from whom Licensee has sought or obtained treatment, support, or assistance.

15. Upon hearing Licensee's petition, the Board may deny Licensee's petition for reinstatement or reinstate Licensee's license with or without conditions and/or limitations imposed on her license.

16. Licensee is responsible for all costs incurred as a result of compliance with this Stipulation and Order.

17. In the event Licensee resides or practices outside the State of Minnesota, Licensee must promptly notify the Board in writing of the location of her residence and all work sites. Periods of residency or practice outside of Minnesota will not be credited toward any period of

Licensee's suspended, limited, or conditioned license in Minnesota unless Licensee demonstrates that practice in another state conforms completely with Licensee's Minnesota license to practice veterinary medicine.

18. In the event the Board in its discretion does not approve this settlement, this stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Licensee agrees that should the Board reject this stipulation and if this case proceeds to hearing, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this stipulation or of any records relating hereto.

19. Licensee waives any further hearings on this matter before the Board to which Licensee may be entitled by Minnesota or United States constitutions, statutes, or rules and agrees that the order to be entered pursuant to the stipulation shall be the final order herein.

20. Licensee hereby acknowledges that she has read and understands this stipulation and has voluntarily entered into the stipulation without threat or promise by the Board or any of its members, employees, or agents. This stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this stipulation.

VI.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

21. 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 must schedule a hearing before the Board. At least 20 days before the hearing, the Committee must mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice must designate the time and place of the hearing. Within ten days after the notice is mailed, Licensee must 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 may not refer to matters outside the record. The evidentiary record must 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 will have the burden of proving by a preponderance of the evidence that a violation has occurred. 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 will 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 suspending, revocation, or limitation of Licensee's license.

f. Nothing herein limits 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.

22. 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

23. In the event Licensee leaves Minnesota to reside or to practice outside of the state, Licensee must give the Board written notification of the new location, as well as dates of departure and return. If Licensee leaves the state, the terms of this order continue to apply unless waived by the Board in writing.

24. Licensee waives the 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.

25. Licensee waives any 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.

26. 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.

27. Either party may seek enforcement of this Stipulation and Order in any appropriate civil court.

28. Licensee has read, understands, and agrees to this Stipulation and Order and has voluntarily signed the Stipulation and Order. Licensee is aware 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 the Board rejects the Stipulation and Order, it will be of no effect except as specified in the following paragraph.

29. 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.

30. 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 admission 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

31. 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 all entities and 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.

32. The parties consider this Stipulation and Order a settlement document under Rule 408 of the Federal Rules of Evidence and Rule 408 of the Minnesota Rules of Evidence. The parties contemplate that this Stipulation and Order shall be inadmissible in any civil or criminal proceeding outside of this administrative health licensing proceeding.

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

BOARD OF VETERINARY MEDICINE
COMPLAINT REVIEW COMMITTEE

Denise I. Nelson, DVM
DENISE I. NELSON, D.V.M.
Licensee

Barbara Fischley, DVM
BARBARA FISCHLEY, D.V.M. FOR DR. FISCHLEY
Committee Member

Dated: 12-19-14

Dated: 2/11/15

ORDER

Upon consideration of the Stipulation and all the files, records, and proceedings herein, the Stipulation is hereby issued as an Order of this Board effective this 11th day of February, 2015.

MINNESOTA BOARD
OF VETERINARY MEDICINE



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