

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**



In the Matter of
Denise Irene Nelson, D.V.M.
License No. 03890

**STIPULATION AND ORDER
REINSTATEMENT**

STIPULATION

Denise Irene Nelson, D.V.M. ("Licensee"), and the Minnesota Board of Veterinary Medicine Complaint Review Committee ("Committee") agree that 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 June 24, 2015, Licensee met with the Complaint Review Committee. The Committee was composed of Board members Barbara Fischley, D.V.M., and Sharon Todoroff, public member. Julia Wilson, D.V.M., Executive Director of the Board, was also present. Jennifer C. Middleton, Assistant Attorney General, appeared on behalf of the Committee. Licensee was represented by Priscilla Lord, Esq., Lord & Associates, 309 Clifton Avenue, Minneapolis, Minnesota 55403.

III.

FACTS

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

a. Licensee has suffered from chronic back pain since 1979.

b. Licensee admitted to diverting Tussigon (Hydrocodone), a Class III controlled substance, from her place of employment for her personal use while she was employed as a veterinarian by a clinic in Minnesota.

c. On February 11, 2015, Licensee entered into a Stipulation and Consent Order ("2015 Order") which suspended her license to practice veterinary medicine in the State of Minnesota.

f. Licensee has met all of the conditions of the 2015 Order and petitioned for reinstatement of license to practice veterinary medicine.

IV.

LAWS

5. 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**

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

6. IT IS HEREBY ORDERED that the Stipulation and Order issued to Licensee on February 11, 2015, is hereby **RESCINDED** and shall have no further force and effect;

7. The Board **REINSTATES** Licensee's license to practice veterinary medicine in the State of Minnesota;

8. The Board hereby places the following **LIMITATIONS** Licensee's license:

a. Licensee shall not have independent access to controlled substances in the workplace.

9. The Board hereby places the following **CONDITIONS** on Licensee's license:

a. Within 10 days of the effective date of this order, Licensee will contact Health Professional Services Program ("HPSP") to schedule an assessment to determine if Licensee is eligible for monitoring. If it is determined that Licensee is eligible for monitoring, Licensee shall enroll, and comply with all requirements of Licensee's HPSP participation agreement.

b. Within 10 days of employment as a veterinarian, Licensee shall provide her employer with a copy of this Stipulation and Order.

c. Licensee will cause to be submitted a quarterly report from her employer detailing Licensee's work performance on a form provided by the Board.

10. Following thirty-six (36) months from the date of this order and upon completing the requirements set forth in paragraph 9, including successful completion of Licensee's HPSP participation agreement should she be deemed eligible for monitoring, 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 Licensee is capable of conducting herself in a fit and competent manner in the practice of veterinary medicine.

11. At the time of Licensee's petition, Licensee may be required to meet with the Board's Complaint Review Committee to discuss her petition. The Committee will make a recommendation to the full Board which will make a decision as discussed below.

12. Upon hearing Licensee's petition, the Board may deny Licensee's petition for reinstatement, reinstate Licensee's license with conditions and/or limitations imposed on her license, or reinstate Licensee's license as unencumbered.

13. In the event Licensee resides or practices outside the State of Minnesota, Licensee must notify the Board within 10 days 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.

VI.

CONSEQUENCES FOR NONCOMPLIANCE

14. *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 15 below shall apply to the hearing.

15. *Hearing Procedures.* The following procedures shall apply:
- a. *Response to Allegations in Notice.* 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.
 - b. *Hearing Before Board.* The Board shall hold a hearing before its own members in accordance with the procedures set forth in paragraph 15.c. below to determine whether the allegations are true and, if so, whether to take additional disciplinary action against Licensee, which may include any of the forms of disciplinary action set forth in Minnesota Statutes section 156.127.
 - c. *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 he 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.
 - d. *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.

16. *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 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

17. 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.

18. 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.

19. 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.

20. Licensee shall be responsible for all costs incurred as a result of compliance with this Stipulation and Order.

21. 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 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.

22. 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.

23. 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

24. 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.

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

Denise Irene Nelson, DVM
DENISE IRENE NELSON, DVM
Licensee

Barbara Fischley, DVM DVM
BARBARA FISCHLEY, DVM
Committee Member

Dated: 7-14-15

Dated: July 15, 2015

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 15th day of July, 2015.

MINNESOTA BOARD
OF VETERINARY MEDICINE

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