

**BEFORE THE MINNESOTA  
BOARD OF VETERINARY MEDICINE**

In the Matter of  
Gary H. Newman, D.V.M.  
License No. 03171

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND FINAL DECISION AND ORDER**

On April 9, 2004, the Complaint Review Committee ("Committee") of the Minnesota Board of Veterinary Medicine ("Board") initiated the above-entitled proceeding against Gary H. Newman, D.V.M. ("Licensee"), pursuant to the procedures set forth in part VI of the Order and Settlement Memorandum issued to Licensee on March 6, 2002. The matter came on for hearing by the Board on May 12, 2004 in Conference Room A, 4th Floor, 2829 University Avenue S.E., Minneapolis Minnesota 55414.

Susan E. Damon, Assistant Attorney General, presented oral argument on behalf of the Committee. Licensee empowered pvc se.

Board members present who considered this matter were: Joanne Schulman, D.V.M., Board President; Lorna Reichl, D.V.M., Board Vice President; John Lawrence, D.V.M., Board member; Meg Glattly, D.V.M., Board member and Susan Osman, Board member. Committee members Lynn Green, Board member, and Fred Mehr, D.V.M., Board Secretary-Treasurer, did not participate in deliberations or vote in the matter.

Based upon all of the files, records, and proceedings herein, the Board makes the following:

**FINDINGS OF FACT**

1. Licensee has been licensed by the Board since July 1, 1971.

2. Licensee is subject to the terms of an Order and Settlement Memorandum of the Board dated March 6, 2002 ("Order and Settlement Memorandum").

3. The Order and Settlement Memorandum, which has been in effect at all times material hereto, conditioned Licensee's license to practice veterinary medicine in the State of Minnesota on Licensee's compliance with certain requirements, including the following:

[V.A.2.a.] Minnesota Jurisprudence Examination. Within 60 days of the date of this Order, Licensee shall take and pass the Minnesota Jurisprudence Examination with a minimum passing score of 90.

[...]

[V.A.9] Continuing Education. Within one year of the date of the Order issued pursuant to this Settlement Memorandum, Licensee shall supply the Board proof of his completion of continuing education requirements for the period March 1, 1999 through February 28, 2001.

4. On or about March 19, 2002, the Board's former executive director sent Licensee a copy of the Minnesota Jurisprudence Examination, along with copies of reference materials.

5. Licensee did not return his completed Jurisprudence Examination to the Board to be scored within 60 days of March 6, 2002, as required by paragraph V.A.2.a. of the Order and Settlement Memorandum.

6. On or about February 23, 2003, Licensee submitted an Application for Biennial License Renewal for the period March 1, 2003 through February 28, 2005. The Application included Licensee's certification that he had completed 40 hours of continuing education between March 1, 2001 and February 28, 2003.

7. Licensee did not supply the Board proof of his completion of continuing education ("CE") requirements for the period March 1, 1999 through February 28, 2001 on or before March 5, 2003, as required by paragraph V.A.9 of the Order and Settlement Memorandum.

8. On May 15, 2003, the Board received an e-mail from Licensee, in which he indicated that he had completed the following CE:

2002 AABP Convention, 2002 Minnesota Herd Health Convention, Forage Seminar before the 2002 Minnesota Herd Health Convention, Magazines and Periodicals, Nutrition and Dairy Management Seminars.

Licensee's May 15, 2003 e-mail did not specify the number of CE hours Licensee had actually completed or whether the CE was intended to cover the period March 1, 1999 through February 28, 2001, as required by the Order and Settlement Memorandum, nor did Licensee forward any documentation to the Board substantiating his attendance at the above-referenced conventions and seminars.

9. Licensee stated in his May 15, 2003 e-mail that he would "try to get the jurisprudence done."

10. As of February 27, 2004, the Board had not received the Licensee's completed Jurisprudence Examination or proof of Licensee's compliance with the CE requirements for the period March 1, 1999 through February 28, 2001. Accordingly, on February 27, 2004, the Board's executive director sent Licensee a letter, advising Licensee as follows:

[Y]ou have not complied with the requirements to submit proof of completion of continuing education for the period March 1, 1999 through February 28, 2001 within one year of the date of the Order as stated in paragraph V.A.9. of the Settlement Memorandum. Also, paragraph V.A.2.a. of the Settlement Memorandum requires that you take and pass the Minnesota Jurisprudence exam within 60 days of the date of the Order. I have record of a letter dated March 19, 2002 mailing you the Minnesota Jurisprudence exam and reference materials. To date, however, the Board has not received the examination back for scoring.

The purpose of this letter is to seek factual information from you on this complaint and to give you an opportunity to reply to the stated allegations. Once all pertinent information is received, the complaint committee will review the information to determine what, if any, further action needs to be taken. Please read the enclosed information for a more detailed explanation of your rights and obligations related to the complaint investigation and the potential use of the information obtained during the course of an investigation.

Rules of the Board require response to inquires within 30 days.

11. To date, Licensee has not responded to the executive director's February 27, 2004 letter.

Based upon the foregoing Findings of Fact, the Board makes the following:

### **CONCLUSIONS OF LAW**

1. The Board has subject matter jurisdiction herein pursuant to Minn. Stat. §§ 156.081, 156.127, 214.10, 214.103 and the Order and Settlement Memorandum dated March 6, 2002.
2. The Committee and the Board have complied with all relevant substantive and procedural requirements of statute, rule and the Order and Settlement Memorandum.
3. The Committee has proven by a preponderance of the evidence that Licensee violated paragraphs V.A.2.a. and V.A.9 of the Order and Settlement Memorandum.
4. The violations referenced in the preceding paragraph constitute grounds for the Board to take further disciplinary action against Licensee pursuant to part VI of the Order and Settlement Memorandum and Minn. Stat. § 156.127.
5. Any of the foregoing Findings of Fact more properly considered a Conclusion of Law, and any of the Conclusions of Law more properly considered a Finding of Fact, are hereby adopted as such.

Based upon the foregoing Conclusions of Law, the Board issues the following:

### **ORDER**

1. Licensee's license to practice veterinary medicine in the State of Minnesota is hereby **SUSPENDED**, effective immediately, and Licensee shall not practice or hold himself out as authorized to practice veterinary medicine. The suspension shall remain in effect until Licensee fully complies with the following requirements:

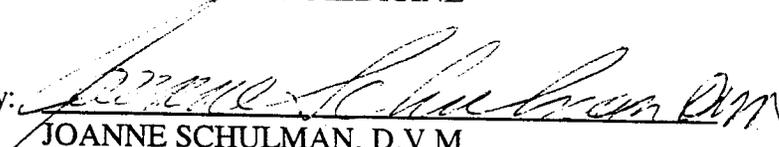
a. Licensee must complete and return to the Board for scoring the Minnesota Jurisprudence Examination and must pass the examination with a minimum score of 90.

b. Licensee must submit to the Board proof of his completion of at least 40 hours of continuing education for the period March 1, 1999 through February 28, 2001 and of at least 40 additional hours of continuing education for the period March 1, 2001 through February 28, 2003. The CE must meet the requirements for Board approval set forth in Minn. R. 9100.1000. The proof of completion required of Licensee under this paragraph must comport with that required in a Board audit of continuing education under Minn. R. 9100.1000, subp. 8.B. If the Committee determines that Licensee has failed to furnish the required proof of CE completion for the periods March 1, 1999 through February 28, 2001 and March 1, 2001 through February 28, 2003, Licensee shall be required to complete additional CE hours as directed by the Committee and to furnish proof satisfactory to the Committee of completion of such additional hours.

c. Licensee must pay to the Board a civil penalty in the amount of \$2,000.

Dated: Sept 15, 2004

MINNESOTA BOARD  
OF VETERINARY MEDICINE

By: 

JOANNE SCHULMAN, D.V.M.  
Board President

### MEMORANDUM

On February 25, 2002, Licensee and the Complaint Review Committee participated in a mediation session to resolve an administrative contested case proceeding pending in the Minnesota Office of Administrative Hearings. As a result of the mediation session, Licensee and

the Committee signed a Settlement Memorandum, which was approved and issued as an order of the Board on March 6, 2002.

Paragraph V.A.2.a of the Order and Settlement Memorandum requires Licensee to take and pass the Minnesota Jurisprudence Examination with a minimum passing score of 90 within 60 days of the date of the Order. Although the Board's former executive director sent Licensee the examination and reference materials shortly after the Order was issued, Licensee has, to date, not returned the completed examination for scoring. In his May 15, 2003 e-mail to the Board, Licensee acknowledged that he had still not completed the examination.

Paragraph V.A.9 of the Settlement Memorandum requires that Licensee submit proof of his completion of continuing education requirements for the period March 1, 1999 through February 28, 2001 within one year of the date of the Order. Licensee certified his completion of continuing education for the period March 1, 2001 through February 28, 2003 with his Application for Biennial License Renewal for the period March 1, 2003 through February 28, 2005. However, Licensee submitted no information to the Board within one year of the date of the Order demonstrating that he had completed 40 hours of continuing education for the period March 1, 1999 through February 28, 2001. Licensee sent an e-mail to the Board on May 15, 2003 referencing a number of CE courses he had taken. Licensee did not specify in his e-mail the number of CE hours completed or whether the courses referenced were those he had certified on his Application for Biennial License Renewal for the period March 1, 2003 through February 28, 2005, the CE required for the March 1, 1999 through February 28, 2001 or both. Moreover, Licensee submitted no documentation to substantiate his completion of CE, although the Settlement Memorandum clearly requires him to submit "proof of his completion."

Licensee has plainly violated two separate provisions of the Board's Order and the Settlement Memorandum to which he agreed. Moreover, he has failed to respond to the executive director's February 27, 2004 inquiry about the violations. Under these circumstances, the Board finds it appropriate to suspend Licensee's license and to assess a civil penalty against Licensee in order to discourage similar violations. In accordance with Minn. Stat. § 156.127 and the Order and Settlement Memorandum, the Board has authority to take this additional disciplinary action against Licensee.

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