STIPULATION AND ORDER

Gary D. Quimby, 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 Minnesota Statutes chapter 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. The Board’s Complaint Review Committee (“Committee”) was composed of Board members Steven Shadwick, D.V.M., and Michelle Vaughn, D.V.M. On August 10, 2021, Licensee met with the Committee to discuss the allegations in the Notice of Conference dated July 27, 2021. Licensee appeared without an attorney. Rebecca Huting, Assistant Attorney General, represented the Committee. Julia Wilson, Executive Director of the Board, was also present.
Following the August 10, 2021, conference, Licensee retained Robert Kuderer as his attorney, who presently represents Licensee.

III.

FACTS

4. The parties agree this Stipulation and Order is based upon the following facts:

   A. On June 12, 1982, Licensee was licensed to practice veterinary medicine in Minnesota.

   B. Licensee is the sole owner of a veterinary clinic (“Clinic”) located in Pine Island, Minnesota.

   C. Licensee was subject to an Agreement for Corrective Action in 2003 relating to substandard record keeping and inappropriate extra-label use of an antibiotic in a cat.

   D. On July 15, 2021, Licensee’s Clinic and mobile veterinary vehicle were inspected by representatives of the Board pursuant to a complaint. Multiple deficiencies were identified throughout the Clinic, and mobile vehicle. The deficiencies which also include issues identified during the August 10, 2021, conference included the following:

       1. Every room of the clinic was markedly dirty and cluttered.

       2. Areas of mold or mildew in the exam/treatment/surgery room.

       3. Numerous flies were present in the exam/treatment/surgery as well as in the bathroom.

       4. The exam/treatment/surgery room was extremely unclean, and the countertop contained unknown green/yellow substances, mold and mildew, wood particles, dirt, and fur. The sink area was rusty, dirty, and appeared to have mold. The cabinet under the sink
contained a spider and cobwebs; significant mold/mildew damage to wood from leaking plumbing; and an overflowing, moldy, foul-smelling tray to catch leaking water.

5. Refrigerators in the reception area and the exam/treatment room were dirty and stained and emitted a foul odor when opened. In each refrigerator, human food and drink were stored alongside veterinary products.

6. The entire clinic had an odor. It was difficult to gauge the adequacy of the ventilation in the clinic. The front door had been propped wide open during the entire time of the inspection. There was no screen door to keep insects out.

7. A bucket of dirty mop water was next to the counter where blood tests appear to be processed.

8. The clinic was poorly lit. A number of the fluorescent lightbulbs in the ceiling fixtures were not working. Some fixtures were missing lightbulbs, and some had no cover over the lightbulbs.

9. Expired medications and vaccines were found throughout the clinic and in the mobile vehicle used for large animal practice.

10. Controlled medications were not stored in a locked place.

11. No site for cleaning and sterilization of veterinary instruments was observed.

12. Beer cans and banana peels were seen during the inspection at various locations in the clinic, including the Clinic’s lobby.

13. Licensee was observed performing abdominal surgery with nitrile gloves and without a gown, mask, or cap. No drape was observed on the patient who was bedded on shredded paper on the surgery table.
14. Five medical records that were reviewed failed to meet the minimum requirements for recordkeeping.

15. Licensee uses a high-pressure canning device to sterilize surgical instruments, nitrile gloves, drapes, and gauze.

16. Licensee does not perform a pre-surgical scrub of Licensee’s hands.

17. Licensee does not intubate patients under general anesthesia, solely utilizing a nose cone if any inhalant anesthetic is administered.

18. Licensee does not monitor blood pressure, oxygenation, or heart rate during general anesthesia.

IV.

LAWS

5. Licensee acknowledges that the facts and conduct described in section III above constitute violations of Minnesota Statutes sections 156.081, subdivisions 2 (3), (6), (11) and (12); Minnesota Rules 9100.0200; 9100.0300; 9100.0700, subpart 1(A), (B), (C), and (L); and 9100.0800 subparts 1, 2.C, 3; 4; and 6.D.; and 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. The Board hereby SUSPENDS Licensee’s license to practice veterinary medicine.

A. Licensee’s license is SUSPENDED.
B. During the period of suspension, Licensee shall not, in any manner, practice veterinary medicine and surgery in Minnesota.

7. The suspension will be **STAYED** to solely allow wellness and preventive care appointments if Licensee complies with the following requirements:

   A. Licensee must engage a veterinary clinic sanitation expert (“Expert”) to perform an inspection of the Clinic to provide a written assessment of the cleanliness and sanitation of the Clinic. The Expert must be preapproved by the Committee. Licensee must provide the Expert with a copy of the Stipulation and Order prior to the initial inspection. The Licensee will cause the Expert to confirm their agreement in writing to the Board and to provide the Board with a report of that assessment. The report must be approved by the Committee. At the time of Licensee’s petition, Licensee must submit to the Board a final written report from that expert indicating that the facility and sanitation protocols for cleaning and sterile surgery meet at least minimum standards. Following receipt of this communication, Licensee’s clinic must pass reinspection by the Committee’s representative(s).

   B. Licensee must limit his veterinary practice to routine wellness and preventive care, such as vaccines, nutritional advice, heartworm prevention, deworming and herd health. The messaging system on Licensee’s business phone line must inform patients that Licensee has limited his veterinary practice to the above.

8. Upon completing the requirements set forth below, Licensee may petition for a lifting of the stayed suspension and the granting of a conditional 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
stayed suspension should be lifted. At the time of his petition, Licensee may be required to meet with a Committee and must comply with, at minimum, the following requirements:

A. Within one month from the effective date of this Order, Licensee must contact the Minnesota Health Professional Services Program (“HPSP”) to complete an intake interview. If the HPSP requires Licensee sign a Participation Agreement, Licensee must do so and comply with and successfully complete all terms of his HPSP agreement.

B. 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.

C. Within one month from the effective date of this Order, Licensee must engage an infection control consultant (“Consultant”) to develop Clinic-specific protocols for cleaning of the Clinic and all equipment, sterilization of surgical instruments, aseptic surgery, disposal of biological materials, and best practices for injectable medications, vaccines and fluids. The Consultant must also perform an inspection of the Clinic to provide a written assessment and plan for remediation of any noted deficiencies. The Consultant must re-inspect the Clinic to assure compliance with the protocols. The expert must meet the approval of the Committee. Licensee must provide the Consultant with a copy of the Stipulation and Order prior to the initial inspection. The Licensee will cause the Consultant to confirm their agreement in writing to the Board. At the time of Licensee’s petition, Licensee must submit to the Board a final written report from that Consultant indicating that the facility and protocols for cleaning sterile surgery, management of injectable medications, vaccines and fluids as well as disposal of biologic materials meet at least minimum standards. Following receipt of this communication, Licensee’s clinic must pass reinspection by the Committee’s representative(s).
D. At the time of Licensee’s petition, Licensee shall submit to the Committee evidence of completion within the previous six (6) months of at least six (6) hours of continuing education on the topic of veterinary medical records. For purposes of this requirement, the Committee preapproves the “Veterinary Medical Records Online Course” offered by Drip Technologies. Alternative sources of continuing education must be preapproved by the Committee. The credits from this continuing education may not be applied to the requirements for Licensee’s next license renewal.

E. At the time of Licensee’s petition, Licensee shall submit to the Committee evidence of completion within the previous six (6) months of the following interactive continuing education. All continuing education must be preapproved by the Committee. These credits may not be applied to requirements for license renewal:

1. Two (2) hours of interactive education with an expert on the topic of safe storage of controlled substances and record keeping requirements. The expert must meet the approval of the Committee. For the purpose of this requirement, the Committee pre-approves Drug Enforcement Administration (“DEA”) investigator, Joseph Cappello. Licensee must provide the expert with a copy of the Stipulation and Order prior to the continuing education. The Licensee will cause the expert to confirm their agreement in writing to the Board. At the time of Licensee’s petition, Licensee must submit to the Board a final written report from that expert indicating that Licensee understands the legal requirements and how to maintain sufficient records of Licensee’s inventory and use of controlled substances.

2. Six (6) hours of interactive continuing education on the topic of anesthesia in small animals, to include monitoring of anesthetized animals. This requirement may be waived
if Licensee agrees to refrain from performing any surgeries under general anesthesia upon resuming practice.

F. At the time of Licensee’s petition, Licensee must submit verification that, within the previous six (6) months, he has passed the Companion Animal Species-Specific Examination provided by the International Council for Veterinary Assessment.

G. At the time of Licensee’s petition, Licensee must meet all license requirements in effect at the time of his petition.

9. The Board may, at any regularly scheduled meeting following Licensee’s petition for lifting of stayed suspension and imposition of conditions pursuant to paragraph 8 above, take any of the following actions:

A. Grant the petition to lift the stayed suspension and impose conditions upon Licensee;

B. Grant Licensee’s petition to lift the stayed suspension and place limitations upon Licensee’s scope of practice, additional conditions for Licensee’s practice beyond what is set forth below, or both; or

C. Continue the stayed suspension of Licensee’s license upon his failure to meet the burden of proof.

10. Conditions on License:

A. If the Board lifts the stayed suspension imposed on Licensee’s license as set forth in paragraph 9 above, the following CONDITIONS will be imposed on Licensee’s license:

B. Within three (3) months following Licensee’s resumption of clinical practice, Licensee must submit his appointment schedule for the preceding three (3) months. The
Committee will select three (3) patient appointments for which Licensee must submit the complete medical records and any imaging files. These records must meet the approval of the Committee.

C. For three (3) subsequent quarters, Licensee must submit his appointment schedule at the conclusion of the quarter. The Committee will select three (3) animal patients for whom copies of the complete medical records and imaging files must be submitted for review by the Committee. These records must meet the approval of the Committee.

11. Upon satisfactory completion of the requirements set forth in paragraphs 10.B. and 10.C., Licensee may petition the Board for an unconditional license. Licensee may be required to meet with the Committee at the Committee’s discretion, to discuss his petition. 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 he is capable of conducting himself in a fit and competent manner in the practice of veterinary medicine. The Board will have discretion to decide whether to grant Licensee’s petition for an unconditional license; continue the conditions imposed upon Licensee’s license by this Stipulation and Consent Order; or impose additional conditions and limitations upon Licensee’s license.

VI.

CONSEQUENCES FOR NONCOMPLIANCE

12. In addition to the requirements of this Stipulation, Licensee shall comply with the laws or rules of the Board. Licensee agrees that failure to comply with the Board’s laws or rules shall be a violation of this Stipulation and Order. It is Licensee’s responsibility to ensure all 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 documentation on or before the due date is a violation of this Stipulation and Order.
Noncompliance or Violation with Stipulation and Order

13. If the Committee probable cause to believe Licensee has failed to comply with or has violated any of the requirements for staying the suspension as outlined in paragraph 7 above, the Committee may remove the stayed suspension pursuant to the procedures outlined below, with the following additions and exceptions listed in A. and B. below:

A. The removal of the stayed suspension will take effect upon service of an Order of Removal of Stayed Suspension (“Order of Removal”). Licensee agrees that the Committee is authorized to issue an Order of Removal, which will remain in effect and will have the full force and effect of an order of the Board until the Board makes a final determination pursuant to the procedures outlined in paragraph 14 below. The Order of Removal will confirm the Committee has probable cause to believe Licensee has failed to comply with or has violated one or more of the requirements for staying the suspension of Licensee’s license. Licensee further agrees an Order of Removal issued pursuant to this paragraph will be deemed a public document under the Minnesota Government Data Practices Act. Licensee waives any right to a conference or hearing before removal of the stayed suspension.

B. The Committee will schedule the hearing pursuant to paragraph 14.a. below to be held within 60 days of the notice.

14. If Licensee fails to comply with or violates this Stipulation and Order or it is determined Licensee has further violated Minnesota Statutes chapter 156 or Minnesota Rules chapter 9100, 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 ten days prior to 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 seven 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 the Licensee prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through the procedures of Minnesota Statutes Section 214.103, subdivision 6.

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. 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 this 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 conditions or limitations on Licensee's practice, 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, if the suspension has been stayed, 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

15. 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.

16. 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.
17. 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.

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

19. 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.

20. 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.

21. 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

22. 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.

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

COMMITTEE:

[Signatures]

GARY D. QUIMBY, DVM
Licensee

MICHELLE VAUGHN, DVM
Committee Member

Dated: October 27, 2021

Dated: 11/17/21
ORDER

Upon consideration of the Stipulation, the Board hereby imposes a STAYED SUSPENSION of Licensee’s license to practice veterinary medicine. The Board adopts all of the terms described above on this 18th day of November, 2021.

MINNESOTA BOARD OF VETERINARY MEDICINE

[Signature]

JULIA H. WILSON, DVM.
Executive Director