

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
Wayne D. Scanlan, DVM
License No. 08675

STIPULATION AND ORDER

STIPULATION

Wayne D. Scanlan, DVM (“Licensee”), and the Minnesota Board of Veterinary Medicine 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 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 October 21, 2020, and October 5, 2021 Licensee met virtually with the Committee, composed of Board members Julie Dahlke, DVM, and Michelle Vaughn, DVM. Rebecca Huting, Assistant Attorney General, represented the Committee remotely. Julia Wilson, DVM, Executive Director of the Board, also participated in the conference. Nicole Vink, State Program Administrator, recorded the conference remotely.

III.

FACTS

4. The parties agree this Stipulation and Order is based upon the following facts:
 - a. At all times relevant to these allegations, Licensee was a veterinarian at Otter Lake Animal Care Center (“Clinic”), located in Hugo, Minnesota.
 - b. On April 13, 2020, Licensee was presented with Duncan, a 10-year-old male Boxer, owned by D.O. Duncan had a history of acute onset of straining to urinate and defecate.
 - c. Licensee prescribed antibiotics for a presumptive diagnosis of a urinary tract infection based on the absence of other clinical abnormalities and the presence of red blood cells and low number leukocytes in a sample provided by Duncan’s owner.
 - d. Licensee re-evaluated Duncan the following day, April 14, 2020, because Duncan was unable to urinate and was drinking excessively.
 - e. Licensee took a single lateral radiograph to rule out a urolith. The radiograph did not include the entire urethra.
 - f. Licensee passed a catheter into the bladder with slight difficulty at the level of the urethral flexure and pelvic brim. The bladder was drained.
 - g. Licensee attributed the inability to urinate to urethral spasm but failed to consider other potential diagnoses.
 - h. On April 15, 2020, Licensee examined Duncan who was unable to urinate before a catheter was placed into his bladder. When the catheter was removed, the dog was still unable to urinate.

i. Licensee recommended an ultrasound examination that could not be performed at Licensee's clinic until five days later.

j. Licensee did not recommend immediate referral to a veterinary clinic that could provide diagnostic ultrasound to obtain additional information to reach a diagnosis.

k. Duncan was evaluated at an emergency clinic later that day. Radiographs and ultrasound imaging revealed a mass compressing the bladder and colon as well as an enlarged prostate. Duncan was euthanized.

l. Licensee's medical record was incomplete, lacking details of physical examinations on all three days, differential diagnoses, interpretation of the radiograph, and prognosis.

m. On December 3, 2020, a Stipulation and Order ("Order") signed by Licensee was enacted. Licensee failed to meet agreed upon deadlines within the Order.

n. On May 3, 2021, Licensee performed a dental cleaning and removed six teeth from Sophie, an 8-year-old female Maltese, owned by R.G.

o. Licensee did not take post-extraction radiographs to verify that the teeth had been completely extracted nor anticipate significant pain because the teeth were readily removed.

p. Licensee did not record details of a preanesthetic examination beyond a rectal temperature.

q. Licensee did not provide post-operative analgesic medications.

r. Licensee did not monitor Sophie's heart rate, oxygenation or blood pressure during anesthesia and recovery. Monitoring equipment was available.

s. Sophie developed anorexia, shaking and panting behavior the following day. When contacted by Sophie's owner, Licensee directed his staff to inform Sophie's owner that

these abnormalities were not a reason for concern. Licensee was not told of the shaking and panting behavior that Sophie's owner reported.

t. Licensee did not recommend that Sophie be re-evaluated when contacted again by her owner on the third day post extractions because Sophie's clinical signs were worsening. Pain medications were dispensed.

u. Sophie died that evening.

IV.

LAWS

5. Licensee acknowledges the conduct described in section III. above constitutes a violation of Minnesota Statutes sections 156.081, subdivisions 2(11) and (12); 156.123, and Minnesota Rules 9100.0700, subparts 1(A), (B), and (C); and 9100.0800, subparts 1 and 4, and justifies the disciplinary action described in section V. below.

V.

DISCIPLINARY ACTION

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

6. The 2020 Order issued to Licensee on December 3, 2020, is hereby RESCINDED and shall have no future force or effect.

7. The Board hereby SUSPENDS Licensee's license to practice veterinary medicine in the State of Minnesota. The suspension is STAYED so long as Licensee complies with the following CONDITIONS:

a. Within one month from the effective date of this Order and for three (3) subsequent quarters, Licensee must submit Licensee's appointment schedule from the preceding

two months. Licensee will provide complete medical records for three (3) cases selected from his schedule for review by the Committee. The medical records must meet the Committee's approval.

b. Within sixty days from the date of this Agreement, Licensee shall submit to the Committee evidence of completion of at least four (4) credit hours of continuing education on the topics of canine urinary and prostate disease to include the differential diagnosis of dysuria. This continuing education must be preapproved by the Committee and may not be utilized to meet continuing education requirements required for license renewal.

c. Within six months from the date of this Order, Licensee shall submit to the Committee evidence of completion of at least six (6) credit hours of interactive continuing education on the following topics:

- 1) Anesthesia monitoring in small animal patients (2 hours);
- 2) Perioperative pain management in small animals (2 hours); and
- 3) Small animal dental radiography, to include post extraction imaging (2 hours).

This continuing education must be preapproved by the Committee and may not be utilized to meet continuing education requirements for license renewal.

8. Upon completing the requirements set forth above, 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 the conditions should be lifted.

VI.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

9. 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 payments, reports, evaluations, and 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 payments, reports, evaluations, and documentation on or before their due date is a violation of this Stipulation and Order.

Noncompliance with Requirements for Stayed Suspension

10. If the Committee has 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 stay of the suspension pursuant to the procedures outlined in paragraph 11 below, with the following additions and exceptions:

a. The removal of the stayed suspension shall 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 shall remain in effect and shall 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 11 below or until the complaint is dismissed and the order is rescinded by the Committee. The Order of Removal shall 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 shall 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 shall schedule the hearing pursuant to paragraph 11 below to be held within 60 days of service of the Order of Removal.

Noncompliance or Violation with Stipulation and Order

11. 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 shall schedule a hearing before the Board. At least 20 days before 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 ten 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 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 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. Unless stated otherwise in 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 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 additional requirements for the stayed suspension, removal of the stayed suspension, an additional period of 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 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

12. 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.

13. 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.

14. 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.

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

16. 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.

17. 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.

18. 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

19. 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

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

Wayne D. Scanlan DVM
WAYNE D. SCANLAN, DVM
Licensee 0-86-75

Dated: 12/17/21

Michelle Vaughn DVM
MICHELLE VAUGHN, DVM
Committee Member

Dated: 2/2/22

ORDER

Upon consideration of the Stipulation, the Board accepts the **STAYED SUSPENSION** of Licensee's license and adopts all of the terms described above effective this 7th day of February, 2022.

MINNESOTA BOARD
OF VETERINARY MEDICINE



JULIA H. WILSON, DVM
Executive Director