BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE

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

STIPULATION AND ORDER

STIPULATION

Wayne D. Scanlan, 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.

CONFERENCE

III.

FACTS

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

a. Between September 2006 and November 2010, Licensee performed multiple tooth extractions on a 12-year old Shepherd/Lab mixed breed Dog.

b. During the course of an extraction, Licensee failed to remove the entire tooth and numerous tooth root remnants remained in the Dog’s mouth.

c. Subsequent to one of the extractions, the Dog’s tooth root remnant became infected and resulted in continued pain and bad breath.

d. Multiple follow up surgeries for the Dog were necessary to remove the infected tooth roots and to treat the resulting infection.

e. A subsequent review of Licensee’s medical records for the Dog revealed numerous areas of substandard recording keeping, including missing documentation. For example, Licensee’s records failed to include physical examination findings, medications administered, dose and frequency, or the treatment and diagnostic options presented to the owner. The medical record also contained medical information for multiple animals within the Dog’s individual record.

IV.

LAWS

5. Licensee acknowledges the conduct described in section III. above constitutes a violation of Minnesota Statutes section 156.081, subdivision 2(12) and Minnesota Rules 9100.0700 and 9100.0800, and justifies the disciplinary action described in section V. below.
V.

REMEDY

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

A. Limitation on License

6. The Board places the following LIMITATION on Licensee’s license: Licensee may not perform veterinary dentistry in the State of Minnesota until he satisfies the conditions in paragraph 8.a. below. Licensee may only perform veterinary dental cleaning procedures during the interim period after the limitation is removed but prior to the mandated observation referenced in paragraph 8.c. below.

B. Removal of Limitation

7. Licensee may petition the Committee to have the limitation removed from his license following successful satisfaction of the conditions in paragraph 8.a. (14 hours of continuing education) below. Licensee shall have the burden of proving by a preponderance of the evidence that he is capable of practicing veterinary dentistry without the limitation and has complied with the limitation above; however, Licensee's compliance with the limitation shall not create the presumption that the limitation should be removed. Upon consideration of the evidence submitted by Licensee, the Committee may remove, amend, or continue the limitation imposed by this Order. If the Committee determines that the limitation should be amended or continued, Licensee may appeal the Committee’s determination by petitioning the full Board for removal of the limitation at the next regularly scheduled Board meeting following the receipt of Licensee’s petition.
C. Conditions on License

8. The Board places the following **CONDITIONS** on Licensee’s license:

   a. **Continuing Education in Companion Animal Dentistry.** Within six (6) months of the date of this Stipulation and Order, Licensee shall submit to the Board evidence of successful completion of ten (10) continuing education hours on the topic of companion animal dentistry and a minimum four (4) hour wet lab, for a total of 14 continuing education credits on this topic. Licensee shall submit the continuing education courses and wet lab information and/or course outline to the Committee for pre-approval.

   b. **Additional Continuing Education.** Within six (6) months of the date of this Stipulation and Order, Licensee shall submit to the Board evidence of successful completion of ten (10) continuing education hours on the topics of veterinary recordkeeping and veterinary law and ethics. Licensee shall submit written documentation, such as measurable learning objectives and qualifications of the instructor, in order to receive pre-approval from the Committee of classes that Licensee takes in fulfillment of this requirement. For purposes of this requirement, the Committee has pre-approved the **"Online Veterinary Law and Ethics Course"** offered by James F. Wilson, D.V.M., J.D.

   c. **Observation by Board-Certified Consultant.** Within 90 days of the removal of the limitation in paragraph 6, Licensee shall have a D.V.M. consultant, who is board certified in veterinary dentistry, observe at least one veterinary dental procedure at Licensee’s practice **in which at least one non-incisor tooth is removed.** The consultant must be approved by the Committee, for purposes of this Stipulation and Order, before the observation occurs. In order for the Board to consider approving a consultant, Licensee shall submit, or cause to be submitted, the resume or curriculum vitae of the proposed consultant for pre-approval. Licensee is responsible for arranging and paying for the observation. The consultant shall review the facts outlined in paragraph 4. above with Licensee and any investigative data provided by the
Committee to the consultant. The consultant shall submit a report directly to the Board, addressing the following:

1) Verification the consultant has reviewed a copy of this Stipulation and Order and any investigative data obtained from the Committee;

2) The consultant’s observations of Licensee’s dental procedure;

3) A statement as to whether the consultant believes Licensee is competent to practice veterinary dentistry;

4) Any recommendations for additional education directed at improving Licensee’s dentistry technique or routine surgical procedure protocols; and

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

d. Compliance With Consultant’s Recommendations. Licensee shall promptly comply with any recommendations made by the veterinary dentist consultant. If further education is recommended, Licensee must submit written documentation, such as measurable learning objectives and qualifications of the instructor, in order to receive prior approval from the Committee of classes that Licensee takes in fulfillment of this requirement. Licensee shall also submit verification of participation for any class taken in fulfillment of this requirement.

e. Written Protocols. Within 90 days of the date of this Agreement, Licensee shall submit to the Committee for their review and approval Licensee’s practice protocols/policies on:

1) Animal drop off for veterinary care and surgery;

2) Medical boarding;

3) Pre-anesthetic and/or pre-surgical blood work; and

4) Dental procedures, dental charting, and tooth extractions.
The protocols/policies shall be reviewed by the veterinary dentist consultant referenced in paragraph 8.e. before submission to the Committee.

f. Continuing Education Audit. Within 30 days of the date of this Order, Licensee shall submit to the Committee the dates, number of hours, and titles of all continuing education courses taken by Licensee in the two-year period preceding his last license renewal.

g. Records Inspection. Licensee shall permit the Committee or the Committee's designee to perform on-site inspections of Licensee's records to assess Licensee's compliance with this Order. The inspections shall take place during regular business hours when Licensee is on the premises and may occur with or without notice to Licensee. Licensee shall permit the Committee or the Committee's designee to review and copy client records in connection with an inspection. In lieu of entry and inspection, the Committee or Committee's designee may forward a written request to Licensee to provide the Committee or Committee's designee with copies of medical records by mail.

h. Compliance with Recordkeeping Laws. Licensee shall comply with the Minnesota Veterinary Practice Act, Minnesota Statutes sections 156.001 to 156.20, as well as Minnesota Rules 9100.0100 to 9100.1000. In particular, Licensee shall review and comply with the medical recordkeeping requirements of Minnesota Rule 9100.0800, subpart 4. These records may be maintained on hard copy or by use of a computer software program.

i. Failure to Obtain Committee Approval. With respect to any pre-approval requirement within this Stipulation, if Licensee fails to obtain such approval from the Committee before initiation or completion of the specified condition, the Committee may, in its discretion, reject the submission and find that Licensee has not successfully completed the condition.

D. Removal of Conditions

9. Licensee may petition to have the conditions removed from his license at any time following successful satisfaction of the conditions. At the time of his petition, Licensee may be
required to meet with the Committee and shall have the burden of proving by a preponderance of the evidence that he is capable of practicing veterinary medicine without conditions and has complied with the conditions above; however, Licensee’s compliance with the conditions shall not create the presumption that the conditions should be removed. Upon consideration of the evidence submitted by Licensee or obtained through board investigation, the Board may remove, amend, or continue the conditions imposed by this Order.

VI.

CONSEQUENCES OF A VIOLATION

10. **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 11. below shall apply to the hearing.

11. **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 11.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 Statute 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 she 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.

12. 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

13. 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.

14. 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.

15. 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.

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

17. 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.

18. 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.
19. 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

20. 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 national licensee data banks 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.

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

LICENSEE

[Signature]

WAYNE D. SCANLAN, D.V.M.

Dated: Jan 9, 2013
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 ___ day of

February, 2013.

MINNESOTA BOARD
OF VETERINARY MEDICINE

JOHN KING, D.V.M.
Executive Director

AG: #3093731-v1