

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
Wayne E. Searcy, D.V.M.
License No. 01406

STIPULATION AND ORDER

STIPULATION

Wayne E. Searcy, 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. This matter came before the Complaint Review Committee. The Committee was composed of Board members Ronald Swiggum, DVM, and David Richter. Jennifer C. Middleton, Assistant Attorney General, represented the Committee. Licensee was advised of his

right to be represented but declined representation. The Committee determined this matter could be resolved with a Stipulation and Order sent to Licensee via mail.

III.

FACTS

4. On January 1, 2006, Licensee was licensed to practice veterinary medicine in the State of Minnesota.

5. On January 7, 2015, the South Dakota State Board of Veterinary Medical Examiners took disciplinary action against Licensee's license to practice veterinary medicine in South Dakota in the form of a Stipulation and Agreement ("South Dakota Stipulation") with Licensee.

6. The South Dakota Stipulation was based on the following:

a. In 2013, Licensee allowed an unlicensed person to perform veterinary work in South Dakota.

b. Licensee failed to pay sales tax as required by South Dakota Codified Law.

7. On March 31, 2016, the Iowa Board of Veterinary Medicine took disciplinary action against Licensee's license to practice veterinary medicine in Iowa in the form of a Combined Statement of Charges, Settlement Agreement and Final Order ("Iowa Order") with Licensee.

8. The Iowa Order was based on the following:

a. Licensee hired an unlicensed individual and allowed said individual to practice veterinary medicine under licensed veterinary supervision between July 2009 and

October 2014. The unlicensed individual performed C-sections and administered the brucellosis vaccine.

b. Licensee allowed veterinary assistants to assist in accomplishing brucellosis vaccinations under licensed supervision, which was outside the assistants' scope of practice.

c. On December 23, 2014, Licensee entered into a Stipulation and Agreement with the South Dakota Board of Veterinary Medical Examiners.

IV.

LAWS

9. Licensee acknowledges that the facts and conduct described in section III above constitute a violation of Minn. Stat. § 156.081, subd. 2(5) and provide 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:

10. The Board hereby **SUSPENDS** Licensee's license to practice veterinary medicine in the State of Minnesota for a period of no less than 90 days.

11. The Board hereby **CONDITIONS** Licensee's license to practice veterinary medicine upon the following:

a. Within one month from the date of this Stipulation and Order, Licensee must submit documentation of all of his veterinary continuing education from the most recent license renewal period, March 1, 2014 to February 29, 2016.

b. Within ninety (90) days of the Date of this Stipulation and Order, Licensee shall successfully complete four (4) hours of education on the topic of veterinary ethics. Licensee must submit evidence of completion to the Board.

c. All continuing education courses must be preapproved by the Committee. Licensee must submit written documentation, such as title and schedule of the proposed continuing education and qualifications of the instructor, in order to receive preapproval from the Committee of classes Licensee proposes to take in fulfillment of this requirement. The Committee will inform Licensee of its decision within fourteen (14) days of the request. These credit hours may not be counted towards the Licensee's next license renewal.

12. After at least 90 days from the date of this Stipulation and Order, and upon providing the Board with evidence of the successful completion of the requirements set forth in paragraph 11, the suspension of Licensee's license to practice veterinary medicine shall be administratively removed. Licensee shall not practice veterinary medicine until he receives confirmation from the Board verifying Licensee's license reinstatement. The burden of proof shall be upon Licensee to demonstrate by a preponderance of the evidence that he has successfully completed the requirements of this Stipulation and Order.

VI.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

13. It is Licensee's responsibility to ensure all documentation required to be filed with the Board pursuant to this Stipulation and Order is timely filed by those preparing the documentation. Failure to file documents on or before their due date is a violation of this Stipulation and Order. The information contained in documentation is confidential and will be submitted to the Board by United States Mail, courier, or personal delivery only.

14. 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 will schedule a hearing before the Board. At least 20 days before the hearing, the Committee will mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice will designate the time and place of the hearing. Within ten days after the notice is mailed, Licensee will 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 will not refer to matters outside the record. The evidentiary record will be limited to the affidavits submitted prior to the hearing and this Stipulation and Order. The Committee will 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 before the conference, hearing, or meeting of the Board may be taken into account by the Board but will 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 in a suspended status.

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, an additional period of suspension, additional conditions of reinstatement, or revocation of Licensee's license.

f. Nothing herein will limit the Committee's or the Board's right to temporarily suspend Licensee's license pursuant to Minnesota Statutes section 214.077, based on a violation of this Stipulation and Order or based on conduct of Licensee not specifically referred to herein.

VII.

ADDITIONAL INFORMATION

15. Licensee waives the 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 waives any 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 will constitute the entire record and may be reviewed by the Board in its consideration of this matter.

18. Either party may seek enforcement of this Stipulation and Order in any appropriate civil court.

19. Licensee has read, understands, and agrees to this Stipulation and Order and has voluntarily signed the Stipulation and Order. Licensee is aware 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 change, 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 the Board rejects the Stipulation and Order, it will be of no effect except as specified in the following paragraph.

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 admission of Licensee which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth herein.

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.

Wayne E Searcy DVM
WAYNE E. SEARCY, D.V.M.
Licensee

Ronald Swiggum DVM
RONALD SWIGGUM, D.V.M.
Committee Member

Dated: 5-6-2016, 2016

Dated: 5-10-2016, 2016

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 11th day of May, 2016.

MINNESOTA BOARD
OF VETERINARY MEDICINE



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