

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
Susan M. Swanson, D.V.M.
License Number: 09588

STIPULATION AND ORDER

STIPULATION

Susan M. Swanson, D.V.M. (“Licensee”), and the Minnesota Board of Veterinary Medicine (“Board”), by its 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 Board is authorized pursuant to Minnesota Statutes sections 156.001 to 156.20 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

3. On March 12, 2014, Licensee met with the Complaint Review Committee. The Committee was composed of Board members Michelle Vaughn, D.V.M., and John Lawrence, D.V.M. Julia H. Wilson, D.V.M., Executive Director of the Board, was also present. Jennifer R. Coates, Assistant Attorney General, appeared on behalf of the Committee. Licensee elected to forgo legal representation at the conference, but retained attorney Scott Banas following the conference.

III.
FACTS

4. On June 18, 1988, Licensee was licensed to practice veterinary medicine in the State of Minnesota. Licensee is the owner of a Minnesota veterinary clinic where she also practices veterinary medicine. Her practice primarily consists of small animal veterinary practice.

5. Licensee engaged in multiple instances of substandard controlled substance practices as illustrated below:

a. Between approximately March 2008 and November 2010, Licensee donated 15 bottles of ketamine (9/15 expired), a controlled substance, to a Minnesota wildlife sanctuary. In December 2009, she also donated ketamine combined with xylazine to the sanctuary.

b. On February 24, 2013, Licensee ordered two 100 ml bottles of Beuthanasia (pentobarbital sodium), a controlled substance, and provided it to a veterinarian whose license had been revoked. Licensee instructed her staff not to list the Beuthanasia in the controlled substance log.

c. Licensee's controlled substance logs failed to meet federal and state requirements.

6. Licensee performs various surgical procedures on animals and rarely prescribes medication for postoperative pain management. Examples of Licensee's substandard pain-management protocols are as follows:

a. On October 4, 2012, Licensee lanced, drained, and sutured a nine-year-old cat's ear as part of a surgical procedure to treat an ear hematoma and mild ear infection.

Licensee did not use medication for postoperative pain control even though the cat exhibited behavioral signs of pain after the procedure. Licensee's medical records for the cat also failed to meet minimum standards.

b. In May 2013, Licensee performed two separate surgical procedures on an 11-month-old pregnant cat. The first procedure was an ovariohysterectomy. The second procedure was the amputation of the cat's fractured, swollen, and scraped tail. Licensee did not provide postoperative medication to reduce pain or swelling in either case. Licensee's medical records for the cat also failed to meet minimum standards.

c. On May 17, 2013, Licensee examined a three-year-old cat and diagnosed the cat with pyometra and dehydration. Licensee, however, failed to adequately address the cat's dehydration. Licensee also performed an ovariohysterectomy but did not provide postoperative pain medication. Licensee's medical records for the cat also failed to meet minimum standards.

d. In many instances, Licensee only used homeopathic remedies for pain control. The remedies chosen by Licensee were not adequately supported by data regarding efficacy for pain control in animals.

IV.

LAWS

7. Licensee acknowledges that the facts and conduct described in section III above constitute violations of Minnesota Statutes section 156.081, subdivision 2(4), (6), and (12). Licensee further acknowledges that the facts and conduct described in section III above constitute violations of Minnesota Rules 9100.0700, subp. 1(A), (B), (C), (I), (J), (K), and (L), and Minnesota Rules 9100.0800, subparts 1 and 4. Accordingly, Licensee acknowledges that there are sufficient grounds for the remedy set forth below.

V.

DISCIPLINARY ACTION

The parties agree the Board may take the following disciplinary action:

8. The Board **SUSPENDS** Licensee's license to practice veterinary medicine in the State of Minnesota for a period of no less than 12 months. However, the suspension is **STAYED** so long as Licensee complies with the following **LIMITATIONS AND CONDITIONS**:

a. Licensee may not perform any surgical procedures until she satisfies the following conditions:

1) Evidence that Licensee has completed all modules of the "*Online Veterinary Law and Ethics Course*" offered by James F. Wilson, D.V.M., J.D., at Iowa State University. The continuing education credits from this requirement may not be used in the subsequent license renewal.

2) Evidence that Licensee has completed the coursework below. The coursework must be preapproved the Committee. To obtain preapproval, Licensee must submit written documentation describing each course, including the instructor's qualifications and measurable learning objectives. The continuing education credits from this requirement may not be used in the subsequent license renewal. The required coursework is as follows:

i. Eight hours in small animal pain management utilizing medications approved by the federal Food and Drug Administration ("FDA").

ii. Six hours in small animal anesthesia.

iii. Four hours in critical care of small animals, including fluid therapy.

3) After completing the required coursework in paragraph 8.a.2), Licensee must develop and submit the following protocols:

i. A protocol for disposal of all medications, including controlled substances in a veterinary practice.

ii. A protocol for small animal anesthesia, including induction, anesthesia maintenance, and post-anesthesia recovery.

iii. A protocol for pain management in dogs and cats utilizing FDA-approved medications.

4) Prior to submitting the protocols set forth in paragraph 8.a.3), Licensee must meet with a board-certified veterinary anesthesiologist (“Consultant”) for a minimum of two hours to review the protocols developed by Licensee. Licensee and the Consultant must work together to amend the protocols as appropriate. Prior to the meeting, Licensee must cause the Consultant to submit written documentation to the Committee indicating that Licensee and the Consultant will be meeting to review the protocols. Once submitted, the Committee will be solely responsible for determining whether Licensee’s newly developed protocols are sufficient.

5) Licensee must develop and submit a waiver for client signature for use of homeopathic remedies. The waiver must explicitly indicate that the client understands that there are limited published, evidence-based scientific studies documenting the effectiveness of homeopathic remedies in dogs and cats. Once submitted, the Committee will be solely responsible for determining whether Licensee’s newly developed waivers are sufficient.

6) Licensee must develop and submit a consent form for client signature which covers anesthesia and surgery. The consent form must clearly set forth the risks associated with

the procedure(s) and must explicitly indicate that the client understands the risks. Once submitted, the Committee will be solely responsible for determining whether Licensee's newly developed consent form is sufficient.

9. Within 30 days from the date this Stipulation and Order is adopted by the Board, Licensee must submit documentation of all continuing education she has completed in satisfaction for the most recent license renewal period. She must also submit all hours of self-study she has completed in satisfaction for the most recent license renewal period. This information shall be submitted to the Committee.

10. Licensee may petition the Board for an unconditional license upon successful completion the limitations and conditions and upon satisfactory compliance with the terms of this Stipulation and Order. Licensee's petition for an unconditional license may be granted, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof falls upon Licensee to demonstrate by a preponderance of the evidence that she is capable of conducting herself in a fit and competent manner in the practice of veterinary medicine. At the time of Licensee's petition, Licensee may be required to meet with a Complaint Review Committee, which will make a recommendation to the Board to continue, modify, or remove the conditions, limitations, and/or other remedy as it deems appropriate. The Board, however, will make the final decision regarding Licensee's petition.

VI.

CONSEQUENCES OF NONCOMPLIANCE WITH THE STAYED SUSPENSION

11. 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, the Committee may remove the stayed suspension pursuant to the following procedures:

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 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 12 below. The Order of Removal must confirm that 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. An Order of Removal issued pursuant to this paragraph is 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 must schedule the hearing pursuant to paragraph 12 below to be held within 60 days of the Order of Removal being served.

VII.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

12. 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 must schedule a hearing before the Board. At least 20 days before the hearing, the Committee must mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice must designate the time and place of the hearing. Within ten days after the notice is mailed, Licensee must 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 may not refer to matters outside the record. The evidentiary record must 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 will have the burden of proving by a preponderance of the evidence that a violation has occurred. 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 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 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 suspending, revoking, or limiting Licensee's license.

f. Nothing in this Stipulation and Order limits 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.

13. 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.

VIII.

ADDITIONAL INFORMATION

14. In the event Licensee leaves Minnesota to reside or to practice outside of the state, Licensee must give the Board written notification of the new location, as well as dates of departure and return. If Licensee leaves the state, the terms of this order continue to apply unless waived by the Board in writing.

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 shall 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 in this document.

IX.

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 all entities and 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. The parties consider this Stipulation and Order a settlement document under Rule 408 of the Federal Rules of Evidence and Rule 408 of the Minnesota Rules of Evidence. The parties contemplate that this Stipulation and Order shall be inadmissible in any civil or criminal proceeding outside of this administrative health licensing proceeding.

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

BOARD OF VETERINARY MEDICINE
COMPLAINT REVIEW COMMITTEE



SUSAN M. SWANSON, D.V.M.
Licensee

Dated: 12/19/14



MICHELLE VAUGHN, D.V.M.
Committee Member

Dated: 2/11/15

ORDER

Upon consideration of the Stipulation and all the files, records, and proceedings herein,
the Stipulation is hereby issued as an Order of this Board effective this 11th day of
February, 2015.

MINNESOTA BOARD
OF VETERINARY MEDICINE



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