

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
Todd Varnes, D.V.M.
License No. 09599

**STIPULATION AND ORDER
FOR REVOCATION OF LICENSE**

STIPULATION

Todd Varnes, D.V.M. ("Licensee"), and the Minnesota Board of Veterinary Medicine Complaint Review Committee ("Complaint Review Committee") agree that the above-referenced matter may be resolved without trial of any issue or fact as follows:

I.

JURISDICTION

A. 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.

B. 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

A. The Complaint Review Committee that negotiated this settlement with Licensee is composed of Lorna Reichl, D.V.M., Board Vice President, Joanne Schulman, D.V.M., Board President, and John King, D.V.M., Executive Director of the Board. Susan E. Damon, Assistant Attorney General, represented the Complaint Review Committee in this matter. Licensee was

represented by counsel during the Committee’s investigation of this matter but terminated his legal representation on September 2, 2004, after the Committee temporarily suspended his license. Although advised of his right to be represented by legal counsel throughout the entire proceeding, Licensee knowingly and voluntarily waived that right.

III.

FACTS

A. For purposes of Board of Veterinary Medicine proceedings only and without prejudice to Licensee in a proceeding in any other forum, the Board may consider the following as true:

1. On March 31, 2004, the Board issued a Stipulation and Order in the *Matter of Todd Varnes, D.V.M., License No. 09599* (“Stipulation and Order”) disciplining Licensee and conditioning his license to practice veterinary medicine in the State of Minnesota on his compliance with a number of terms and conditions, including the following:

[V.A.5.] ***Disruptive, Threatening or Abusive Conduct Prohibited.*** Licensee is prohibited from engaging in any disruptive, threatening or abusive conduct in the work setting, including, but not limited to, the following:

- Employing threatening or abusive language directed at clinic staff, other veterinarians or clients;
- Making degrading or demeaning comments regarding staff, other veterinarians or clients;
- Using profanity or other grossly offensive language;
- Utilizing threatening or intimidating physical contact;
- [. . .]
- Engaging in throwing any objects;

- Engaging in any act or omission that causes or may cause unnecessary or unjustifiable pain, suffering, injury to, or the death of any animal; or
- Yelling or screaming at or engaging in any other verbal or physical conduct that may unnecessarily frighten any animal.

[V.A.8] ***Use of Pulse Oximeter.*** Licensee must use a pulse oximeter on animals undergoing surgery consistent with minimum standards of acceptable and prevailing practice.

[V.A.9] ***Dental Extractions by Veterinary Technicians Prohibited.*** Licensee is prohibited from directing or authorizing any veterinary technician or other unlicensed employee to extract animals' teeth or to engage in any other acts or practices that are prohibited under Minn. Stat. § 156.12, subd. 2(h) and Minn. R. 9100.0800, subp. 7.B.

[V.A.10] ***Sterile Surgery.*** Licensee must comply with minimum standards of acceptable and prevailing practice for sterile surgery, including sterilizing each set of surgical instruments in a separate pack and consistently wearing a gown, mask and head covering during surgery.

[V.A.11] ***Controlled Substances.*** Licensee must comply with all state and federal controlled substances regulations, including regulations pertaining to record keeping.

2. Between March 31, 2004, when the Stipulation and Order was issued, and September 1, 2004, Licensee engaged in the following acts, practices and omissions while practicing at a clinic he owns in Blaine, Minnesota:

a. Licensee employed abusive language directed at clinic staff and other veterinarians, including verbally intimidating or belittling clinic employees, calling employees "stupid" and cursing at an associate veterinarian.

b. Licensee made degrading or demeaning comments regarding clinic staff, including calling female staff "worthless broads," using a vulgar term to refer to a contract veterinarian and criticizing the veterinarian's surgeries in front of other staff.

c. Licensee utilized profanity and other grossly offensive language on numerous occasions.

d. On one occasion, Licensee was very angry exiting an examination room and knocked a receptionist into a hallway wall.

e. On numerous occasions, Licensee threw objects, including surgical instruments. At times when he was not able to get catheters used in euthanasia to work, he pulled them out and threw them across the room, scattering blood.

f. Licensee authorized veterinary technicians to perform dental extractions and to give diagnoses over the telephone.

g. Licensee did not wear a gown, mask and head covering during certain surgeries.

h. Licensee did not follow manufacturers' recommendations for storage of vaccines, including one-year rabies, three-year rabies, feline distemper, feline leukemia, canine distemper, canine Lyme and bordetella.

i. Licensee failed to comply with all state and federal controlled substances regulations, including regulations pertaining to record keeping. For example:

(1) Licensee prescribed large quantities of Valium for a dog over a period of approximately 18 months without recording in the patient record the rationale for the prescription, the results of a reevaluation that occurred four months after the initial prescription or any reevaluation with regard to the prescription over a subsequent 14-month period.

(2) Licensee failed to record in certain patient records the name, strength and/or quantities of controlled substances used in surgical procedures.

3. Several former staff who worked at Licensee's clinic between March 31, 2004 and August 26, 2004, including licensed veterinarians, veterinary technicians and a receptionist, signed affidavits about Licensee's conduct during this time period. The affidavits included the following:

a. Licensee masked down dogs and cats for anesthesia with Isoflurane alone without any pre-anesthetic, causing many of the animals to struggle, whine, urinate, defecate or express their anal glands while the gas anesthesia was being administered. Many dogs Licensee anesthetized without a pre-anesthetic required three people to restrain them during this process.

b. Licensee had no pain management protocol in place for his surgical patients and did not provide pain relief to multiple animals after certain surgical procedures, including eye enucleations, declaws, spays, neuters and dental extractions.

c. Licensee's procedure to treat a torn nail in a dog was to restrain the dog with as many people as needed and to cut the nail off at the base using a nail trimmer. Then a caustic powder and bandage was applied. Licensee did not use or offer pain medication, local anesthesia, general anesthesia, or sedation for this painful procedure.

d. Licensee did not take any measures to prevent post-surgical hypothermia in animals or to adequately monitor them. The animals were simply put in cages after surgery. Licensee used no warming blankets or other heating devices and there was not even any bedding in the cages. In addition, the animals were not monitored after they were put in the cages.

e. Licensee did not intubate cats for ovariohysterectomies.

f. Licensee did not use pulse oximeters for surgeries on cats and in certain surgeries that he performed on dogs, including an eye enucleation performed in late July 2004.

g. Licensee did not lubricate endotracheal tubes when he inserted them into cats and dogs.

h. Licensee used the same Resco nail trimmer to declaw several cats in a row without cleaning or sterilizing it between patients.

i. Licensee talked on the telephone for up to 15 or 20 minutes while animals were under anesthesia, thereby unnecessarily increasing the anesthetic risk to the animals.

4. On August 27, 2004, a Board investigator interviewed Licensee about allegations that he had violated the Stipulation and Order. Licensee's response to the affidavit testimony described in paragraph III.A.3 above was as follows:

a. Licensee used gas anesthesia with no prior sedatives, tranquilizers or injectable anesthetics in young puppies and kittens, in animals undergoing C-sections and in older patients that he thought may have kidney or liver problems.

b. Licensee did not usually provide pain medication to patients undergoing declaws, spays, neuters and dental extractions unless the client specifically requested and agreed to pay for pain medication. The \$100 cost of a spay at Licensee's clinic did not include the cost of pain medication. Most of the time in eye enucleations Licensee would give a shot of Rimadyl or Ketoprofen during or shortly after the procedure, and most of the time he would send the client home with Rimadyl or some other type of pain medication.

c. Licensee used no anesthetics or pain relief when clipping a torn nail on an animal.

d. The cages in Licensee's clinic where animals were placed after surgery were on racks made of rubber. Licensee used no warming blankets and used no other bedding because his clinic had no laundry service and no washer and dryer. If Licensee ever found a hypothermic animal, he would wrap it in warm towels and use warm water bottles or warm water gloves. Licensee's stated reason for not using bedding in the cages was that "most cats and dogs will pee or vomit or drool . . . and if you have a towel that's left in there and they pee on it, well once that gets cold, they're going to stay cold."

e. Licensee did not intubate cats for ovariohysterectomies.

f. Licensee did not use pulse oximeters in cat declaw surgeries.

g. Licensee denied not lubricating endotracheal tubes when he inserted them into cats and dogs.

h. Licensee denied reusing a nail trimmer to declaw several cats in a row without cleaning or sterilizing it between patients.

i. Licensee denied having talked on the telephone while animals were under anesthesia.

5. The Committee retained an expert, who is a board-certified veterinary anesthesiologist with expertise in pain management, to review the affidavit testimony, Licensee's response to the affidavits and medical records of Licensee's surgeries obtained in the course of the investigation and to render opinions with regard to certain practices by Licensee identified in the investigation.

6. The expert's opinion about the use of tranquilizers, sedatives and injectable anesthetics before administration of gas anesthesia is as follows:

a. The minimum standard of acceptable and prevailing veterinary practice is to use tranquilizers, sedatives, +/- anticholinergics, and injectable anesthetics before insertion of a tube into the trachea of the anesthetized patient, and connection of the patient to a gas anesthetic machine to continue anesthesia with an inhalant (gas) anesthetic. On occasion when the inhalant anesthetic is induced in the conscious animal using a face mask, preanesthetic tranquilizers and/or sedatives are indicated for the following reasons: to prevent struggling and excitement in the animal during the early stages of anesthesia (unconsciousness), thus to prevent the release of catecholamines (adrenaline) which can cause cardiac arrhythmias, to reduce the potential for injury to clinic personnel from bites and scratches during struggling of the patient, to reduce struggling and excitement of the patient during recovery after anesthesia, to reduce the concentration of the inhalant needed to induce anesthesia and thus prevent overdose, and to reduce the contamination and pollution of inhalant in the environment which can result from high levels of inhalant escaping from the mask, and could result in injury to attendant personnel. Use of a face mask for induction of anesthesia in struggling excited animals can also lead to vomiting and aspiration of acidic stomach contents into the lungs; this complication can easily lead to immediate collapse of breathing, respiratory arrest and death. Tranquilizers, sedatives and injectable anesthetics relax the animal and reduce the restraint necessary. Use of sedatives, tranquilizers and injectable anesthetics greatly reduces the amount of inhalant required for anesthesia and reduces toxicity and side effects of inhalants, including laryngeal spasm, arrest of breathing and cardiac arrest. Many sedatives (opioids particularly) not only calm the patient but also are analgesic and provide pain control during and after surgery. Use of gas anesthesia,

delivered by face mask, without tranquilizers, sedatives and injectable anesthetics may be acceptable in young puppies and kittens, and in some exotic species, for minor and short procedures. However, this practice is unacceptable in most C-section surgeries and in older animals. Minimum standards of acceptable and prevailing practice require sedatives and pain management before induction of gas anesthesia with a face mask in C-sections, and require that a veterinarian perform adequate pre-anesthetic screening (physical examination and laboratory tests) in sick, toxic, or older animals to know the animal's health status before anesthetizing the animal. Results of these examinations must be recorded in the animal's medical record.

b. It was the expert's opinion that Licensee's anesthesia practices (except in young kittens and puppies, and some exotic species) deviated from the minimum standard of acceptable and prevailing veterinary practice in the following ways and caused or may have caused unnecessary or unjustifiable pain, suffering, fear, stress, or injury to animals subjected to this treatment:

(1) Licensee in some cases induced anesthesia by masking a conscious animal without any prior use of sedatives, tranquilizers or injectable anesthetics, and, in some cases, applied excessive restraint.

(2) Licensee administered gas anesthesia by face mask for C-section surgeries without any prior use of sedatives, tranquilizers, injectable anesthetics, or pain controlling drugs.

(3) Licensee administered gas anesthesia by face mask without any prior use of sedatives, tranquilizers or injectable anesthetics in certain cases where he believed there might be problems with injectable anesthesia, such as a history of kidney, heart or

liver problems in the animal, without performing laboratory tests to determine the animal's actual health status.

7. The expert's opinion about pain management includes the ethic that pain and suffering should be prevented and treated in all circumstances, all surgical procedures and many medical diseases involve pain perception by animals, and that there are many methods of pain relief (warmth, comfort, injectable opioids, local anesthetic blocks, NSAIDs) available to veterinarians which can be used safely in individual animals. The expert's opinion about pain management in declaws, eye enucleations, spays, neuters, dental extractions and treatment of torn nails is as follows:

a. (1) Declaws: Minimum standards of acceptable and prevailing veterinary practice require the use of general anesthesia +/- digital nerve blocks plus an opiate analgesic before performance of a declaw procedure and opiate analgesics following the surgery. Digital nerve blocks are well described in the literature and are quick and easy to perform. Opiate analgesia (e.g. hydromorphone or oxymorphone) has been shown in clinical research to be superior to butorphanol or non-steroidal anti-inflammatory drugs (NSAIDs) for pain control in cats after claw removal.

(2) Eye enucleations: Minimum standards of acceptable and prevailing veterinary practice require the use of general anesthesia and an opiate analgesic before performance of an eye enucleation and opiate analgesics following the surgery.

(3) Spays: Minimum standards of acceptable and prevailing veterinary practice require the use of general anesthesia with an opiate analgesic before performance of a spay surgery and opiate analgesics and/or NSAIDs following the surgery.

(4) Neuters: Minimum standards of acceptable and prevailing veterinary practice require the use of general anesthesia and an opiate analgesic before performance of a neuter surgery and opiate analgesics or NSAIDs following the surgery.

(5) Dental extractions: Minimum standards of acceptable and prevailing veterinary practice require the use of general anesthesia and nerve blocks plus an opiate analgesic before performance of a dental extraction and opiate analgesics following the surgery.

(6) Treatment of torn nails: Minimum standards of acceptable and prevailing veterinary practice require the use of some form of pain management during treatment for a torn nail. The form of pain management depends on the circumstances of the case, but where a nail is removed, pain management similar to that used in a declaw surgery is consistent with minimum standards. Sedation and local anesthetic block is appropriate for treatment of a single torn nail.

b. It was the expert's opinion that Licensee's pain management deviated from the minimum standard of acceptable and prevailing veterinary practice in ways that included the following and caused or may have caused unnecessary or unjustifiable pain, suffering or injury to the animals subjected to this treatment:

(1) Licensee's records did not reflect that he used any form of pain medication in animals before or during surgery; and Licensee stated that he did not provide post-surgical pain medication to these patients. All controlled drugs were recorded by notations on Licensee's medical records and included D or Diaz = Diazepam and K or Ket = ketamine. No other controlled drugs were recorded in the medical records reviewed. As this is a legal requirement, it is assumed that no opioid drugs were given in any form for pain control in any of

the cases, as none were recorded. In one case butorphanol was mentioned in the history; this opioid is suitable for mild to moderate pain and appears to be the only analgesic available in Licensee's clinic. It was not given in any of Licensee's surgical cases reviewed.

(2) Based on Licensee's statements in his interview, he usually only provided post-surgical pain medication, even after extremely painful procedures such as declaws, if a client requested such medication.

(3) Licensee used Ketoprofen or Rimadyl for pain management, if he used medication at all, and then these drugs appear to have been given after surgery, by which time the animal was already in pain. These drugs, which are non-steroidal anti-inflammatory drugs, are not adequate to treat pain following many surgical procedures when used without an opioid analgesic, including eye enucleations, declaws, spays, neuters and dental extractions.

(4) Assuming the accuracy of the affidavit testimony, Licensee performed eye enucleation procedures, which are extremely painful, with no pain medication.

(5) Assuming the accuracy of the affidavit testimony, Licensee performed treatment of torn nails, which are extremely painful procedures, with no pain medication.

8. The expert's opinion about prevention of post-surgical hypothermia is as follows:

a. The minimum standard of acceptable and prevailing veterinary practice requires that active measures to maintain an animal's body temperature be taken both during and after general anesthesia. Cold and discomfort are significant factors in prolonging anesthesia, depressing the heart and circulation, and adding to the pain of the animal on recovery.

All dogs and cats relaxed under general anesthesia lose body heat; in the first minutes of anesthesia 2 – 3°F can be lost, progressing to losses of 5 – 10°F if hypothermia is not prevented. Wet hair from sterilizing solutions, alcohol, bleeding or surgical fluids greatly increases heat loss and slows warming. While it is impossible to totally prevent loss of body heat, measures must be taken to minimize the heat loss. Consistent with minimum standards of practice, circulating warm water blankets or hot air blankets are readily available to veterinarians and should be used during surgery. Hair dryers can be used after surgery to dry the hair and skin. Cages where animals are placed after surgery should contain warming devices such as circulating warm water blankets covered by blankets, towels or disposable bedding. Disposable absorbable paper pads (24" x 24," costing less than 25 cents each) can be placed under the animal to soak up any excretion, bleeding or discharges, if the clinic has no laundry facilities.

b. It was the expert's opinion that Licensee's practices to prevent hypothermia in surgical patients deviated from the minimum standard of acceptable and prevailing veterinary practice in ways that included the following and may have caused unnecessary or unjustifiable suffering or injury to or the death of animals subjected to this treatment.

(1) Licensee used no warming blankets or other devices to help maintain animals' body temperatures after surgery.

(2) Licensee used no bedding for insulation in cages where animals were placed after surgery.

(3) Licensee did not or did not adequately monitor the animals for anesthesia-related hypothermia; there is no indication in his medical records of any temperature monitoring.

c. Licensee's statements in his interview that his clinic has no washer and dryer and that no bedding is used in cages for post-surgical patients because animals urinate, vomit or drool on towels are not valid excuses for deviation from minimum standards of acceptable and prevailing practice. Absorbable, disposable pads that provide insulation for post-surgical patients are available and if adequate post-surgical monitoring is taking place, soiled bedding should be immediately removed and replaced.

9. The expert's opinion about post-surgical monitoring is as follows:

a. Minimum standards of acceptable and prevailing veterinary practice require that post-surgical patients be continually monitored for body temperature, pattern of breathing, signs of pain or distress and for other possible post-surgical complications, and that these vital signs are recorded in the medical records at the time they are taken.

b. Assuming the accuracy of the affidavit testimony, it was the expert's opinion that Licensee's failure to monitor post-surgical patients and to document any post-surgical monitoring in his records deviated from the minimum standard of acceptable and prevailing veterinary practice and may have caused unnecessary or unjustifiable suffering or injury to or the death of animals subjected to this treatment.

10. The expert's opinion about intubation of cats during surgical procedures is as follows:

a. For ovariohysterectomy (spay), declaw surgeries and for any other surgical procedure that lasts more than five minutes and requires more than light anesthesia cats should be intubated. At a proper level of anesthesia needed for a spay or declaw procedure, cats salivate, are susceptible to laryngeal spasms, which can lead to blockage of the airway, arrest of breathing and deoxygenation. The larynx in a cat is sensitive and closes easily. Isoflurane and

other inhalant can increase this sensitivity. With the correct equipment (lighted laryngoscope) and use of lidocaine spray on the cat's larynx, intubation can be done in less than 60 seconds.

b. It was the expert's opinion that Licensee's practice of not intubating cats during spay and declaw surgeries deviated from the minimum standard of acceptable and prevailing veterinary practice and may have caused unnecessary or unjustifiable injury to or the death of an animal if an anesthetic or surgical complication had occurred. These complications include, but are not restricted to, laryngeal spasm leading to closure of the airway, aspiration of saliva leading to laryngeal spasm and/or closure of the airway, aspiration of vomit or stomach contents leading to potentially fatal respiratory arrest, and inability of the veterinarian to artificially ventilate the cat with oxygen if at any time during anesthesia it stopped breathing.

11. The expert's opinion about the use of pulse oximeters in surgeries cats is as follows:

a. The minimum standard of veterinary practice is to monitor heart beats and breathing of animals under anesthesia. A pulse oximeter estimates hemoglobin saturation, which assists the veterinarian in ensuring that the animal is breathing and there is adequate oxygen concentration in the patient's arterial blood. It also measures pulse rate and thus gives the veterinarian indication that the animal has a normal pulse and heart beat. At a proper level of anesthesia, pulse oximeters can easily be used on the animals' tongues, and usually toe webs and ear lobes.

b. It was the expert's opinion that Licensee's practices with regard to use of a pulse oximeter deviated from the minimum standard of acceptable and prevailing veterinary practice in ways that included the following and may have caused unnecessary or

unjustifiable injury to or the death of an animal if an anesthetic or surgical complication had occurred:

(1) Licensee did not use a pulse oximeter in declaw surgeries in cats.

(2) Licensee did not record any vital signs (heart rate, respiratory rate, temperature or level of anesthesia) in any anesthetized animal's medical record reviewed; thus, constant vigilance of the vital signs of these animals could not be assured.

12. The expert's opinion about lubrication of endotracheal tubes when they are inserted into cats or dogs is as follows:

a. The minimum standard of acceptable and prevailing practice requires that all endotracheal tubes be lubricated before insertion into cats or dogs in order to prevent injury to the trachea and larynx, structures which are extremely prone to swelling and edema if subjected to dry or rough objects such as an unlubricated endotracheal tube. Swelling of the larynx after recovery of anesthesia could lead to sudden airway obstruction and potentially respiratory arrest or, eventually, cough and voice changes.

b. Assuming the accuracy of the affidavit testimony that Licensee inserted endotracheal tubes into dogs and cats without first lubricating the tubes, it was the expert's opinion that Licensee's practice deviated from the minimum standard of acceptable and prevailing veterinary practice and caused or may have caused unnecessary or unjustifiable pain, suffering or injury to the animals subjected to this treatment.

13. The expert's opinion about sterilization of a nail clipper before re-use is as follows:

a. Minimum standards of acceptable and prevailing veterinary practice require that a nail clipper be resterilized after use before it is used on another patient.

b. Assuming the accuracy of the affidavit testimony, it was the expert's opinion that Licensee's use of unsterile nail clippers in a declaw procedure deviated from the minimum standard of acceptable and prevailing veterinary practice and caused or may have caused injury to or the death of the animals subjected to this treatment.

14. The expert's opinion about the prolonging of anesthesia is as follows:

a. The minimum standard of acceptable and prevailing veterinary practice is to avoid the unnecessary prolonging of anesthesia. The shortest duration of anesthesia is the safest and the risks of complications from anesthesia increase with the time an animal is under anesthesia.

b. Assuming the accuracy of the affidavit testimony, it was the expert's opinion that Licensee's anesthesia practices deviated from the minimum standard of acceptable and prevailing veterinary practice in the following ways, which increased the risk of anesthesia and thereby may have caused injury to or the death of an animal:

(1) Licensee prolonged anesthesia in animals for up to 15 or 20 minutes, apparently unnecessarily.

(2) Licensee did not record, or have a veterinary technician record, any vital signs (heart rate, respiratory rate, temperature or level of anesthesia) in any anesthetized animal's medical record reviewed; thus, constant vigilance of these animals could not be assured during his absence from the operating room or place of anesthesia.

15. Based on its determination that Licensee had violated the March 31, 2004 Stipulation and Order, the Committee temporarily suspended Licensee's license on September 1,

2004 and scheduled a hearing before the Board as authorized by part VI of Stipulation and Order.

16. Licensee has practiced in Minnesota as a professional firm since 1999, but failed to register the firm with the Board as required by Minn. Stat. ch. 319B and to pay the initial registration fee of \$100 and renewal fees of \$25 per year.

IV.

LAWS

A. Licensee acknowledges that the facts and conduct described in section III above, if proven at a hearing, would constitute violations of Minn. Stat. §§ 156.081, subd. 2(11) and (12) and Minn. R. 9100.0700, subps. 1.A, B, C, and I, and 9100.0800, subps. 4, 7.B and 8 and paragraphs V.A.5, V.A.8, V.A.9, V.A.10 and V.A.11 of the March 31, 2004 Stipulation and Order in the *Matter of Todd Varnes, D.V.M., License No. 09599*, and provide a sufficient basis for the disciplinary action set forth in part V below.

V.

DISCIPLINARY ACTION

A. The Board of Veterinary Medicine hereby orders as follows:

1. ***Revocation of License.*** Licensee's license to practice veterinary medicine in the State of Minnesota is hereby revoked, effective immediately, and Licensee is prohibited from engaging in any conduct in the State of Minnesota that constitutes the practice of veterinary medicine and from holding himself out as authorized to practice veterinary medicine.

2. ***Surrender of License Certificate.*** No later than seven days after the date of this Order, Licensee shall surrender his license certificate to the Board of Veterinary Medicine, 2829 University Avenue S.E., Suite 540, Minneapolis, Minnesota 55414.

3. **Civil Penalty.** Licensee shall pay to the Board a civil penalty of \$7,700, which includes the \$2,500 that Licensee still owes under the March 31, 2004 Stipulation and Order and \$200 for unpaid professional firm registration and renewal fees from 1999-2004. Payment of the civil penalty shall be as follows:

a. Licensee must pay \$2,700 no later than seven days after the date of this Order.

b. Licensee must pay the remaining \$5,000 no later than 90 days after the date of this Order.

4. **Payment of Costs.** The Board has incurred \$15,210.50 in costs for investigative and legal services in this matter. Licensee must pay \$5,210.50 of these costs no later than 90 days after the date of this Order.

5. **Compliance with Minn. Stat. ch. 319B.** Licensee shall comply with all requirements of Minn. Stat. ch. 319B pertaining to divestiture of ownership in a professional firm after disqualification.

6. **Records Maintenance.** Licensee shall ensure that all medical and other records pertaining to animals treated at his clinic are either maintained by a licensed veterinarian or are retained for a minimum of three years. Copies of such records must be provided to Licensee's former clients or to the Board within two weeks of any written request in accordance with Minn. R. 9100.0400, subp. 4.D.

VI.

CONSEQUENCES OF A VIOLATION

A. Licensee acknowledges and understands that any violation of this Order may result in legal action by the Board and/or referral to criminal authorities for prosecution.

VII.

REAPPLICATION FOR A LICENSE

A. **Conditions Before Reapplication.** Licensee is prohibited from reapplying for a license to practice veterinary medicine in Minnesota for a minimum of three years and until he has submitted proof to the Board that he has fully complied with the following conditions:

1. **Boundaries Instruction.** Licensee must successfully complete the one-on-one instruction in boundaries required by the March 31, 2004 Stipulation and Order.

2. **Anger Management Course.** Licensee must successfully complete the anger management course required by the March 31, 2004 Stipulation and Order.

3. **Psychotherapy.** Licensee must undergo psychotherapy by a licensed psychologist or psychiatrist who is in good standing with his or her licensing board. Psychotherapy sessions must occur on a regular basis for a minimum of three years. The therapy must address Licensee's conduct described in part III above that resulted in this action, including, but not limited to, Licensee's anger and failure to practice veterinary medicine consistent with professional standards of humane treatment and care. The psychotherapy shall further address increasing Licensee's level of self-awareness, stress reduction, the importance and value of maintaining appropriate boundaries, and any other issues deemed appropriate by the therapist.

4. **Continuing Education in Anesthesia.** Licensee must complete at least 40 hours of Board-approved continuing education in anesthesia.

5. **Continuing Education in Pain Management.** Licensee must complete at least 40 hours of Board-approved continuing education in animal pain management.

6. ***Continuing Education in Sterile Surgical Practices.*** Licensee must complete at least 10 hours of Board-approved continuing education in sterile surgical practices.

7. ***Continuing Education in Animal Behavior.*** Licensee must complete at least 20 hours of Board-approved continuing education in animal behavior. This education must include instruction on current standards of humane restraint of fractious animals.

8. ***Continuing Education in Record Keeping.*** Licensee must complete at least 10 hours of Board-approved continuing education in record keeping.

B. ***Application Requirements.*** Following Licensee's completion of all requirements set forth in paragraph VII.A, Licensee may submit an application to the Board for a license to practice veterinary medicine. As part of the application, Licensee must:

1. Complete the application form, pay the fees and comply with all other application requirements set forth in Minnesota Statutes and Rules.

2. Submit reports from the boundaries instructor, anger management instructor and psychotherapist referenced in paragraphs VII.A.1-3 above.

3. Undergo, at Licensee's own expense, a comprehensive mental health evaluation by an evaluator who is preapproved by the Complaint Review Committee. The purpose of this evaluation will be to determine whether Licensee has successfully addressed the issues underlying his conduct described in part III above and, if so, to determine whether Licensee can be expected to practice veterinary medicine with reasonable skill and safety to patients in accordance with minimum standards of acceptable and prevailing veterinary practice and prevailing professional standards of humane treatment and care.

4. At the request of the Committee or its designee, Licensee shall complete and sign any waiver or authorization for the release of medical, mental health or other records in

order to allow the Committee or its designee to discuss Licensee's case with, to release records and information to and to obtain written evaluations and reports and copies of all of Licensee's medical, mental health or other records from any treatment facility, organization, physician, therapist, treatment provider or other person from whom Licensee has sought or obtained treatment, support or assistance.

5. Licensee must meet with the Complaint Review Committee, in the Committee's discretion, and provide any other information the Committee reasonably deems necessary.

C. ***Requirements for Grant of License.*** The Board may not grant a Licensee a license unless the following requirements are first met:

1. Licensee must demonstrate that he is fully rehabilitated and has successfully addressed the issues underlying his conduct described in part III.

2. Licensee's therapist referenced in paragraph VII.A.3 and the evaluator referenced in paragraph VII.B.3 must conclude that Licensee has successfully addressed the issues underlying his conduct described in part III above and can be expected to practice veterinary medicine with reasonable skill and safety to patients in accordance with minimum standards of acceptable and prevailing veterinary practice and prevailing professional standards of humane treatment and care.

3. No other facts or circumstances, not specifically referred to herein, exist that would be grounds for denial of a license under Minnesota Statutes and Rules.

4. Licensee must sign a stipulation for an order of conditional license prepared by the Committee. The stipulation shall contain terms to ensure that Licensee practices with reasonable skill and safety to patients in accordance with minimum standards of acceptable

and prevailing veterinary practice and prevailing professional standards of humane treatment and care. Those terms may include, but need not be limited to, the following:

a. Conditions such as those set forth in the March 31, 2004 Stipulation and Order.

b. Requirements that Licensee comply with minimum standards of acceptable and prevailing veterinary practice for anesthesia, pain management, sterile surgery and record keeping.

c. A requirement that all care Licensee provides to animals be consistent with prevailing professional standards of humane treatment and care.

d. A requirement that Licensee practice under the direct supervision of a veterinarian in good standing with the Board who is pre-approved by the Committee and who must agree immediately to report to the Board any violation by Licensee of the order.

e. A payment schedule for the remaining \$10,000 in costs that the Board incurred in this proceeding.

f. Summary procedures, such as those set forth in the March 31, 2004 Stipulation and Order, that would apply if Licensee violated the order.

VIII.

ADDITIONAL INFORMATION

A. 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.

B. 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, the temporary suspension of Licensee's license and this proceeding against Licensee or the negotiation or execution of this Stipulation and Order, which may otherwise be available to Licensee.

C. 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.

D. Licensee was advised of his right to be represented by counsel throughout this entire proceeding and knowingly and voluntarily waived that right.

E. 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 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 if the Board rejects the Stipulation and Order, it will be of no effect except as specified in paragraph VIII.F.

F. 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.

G. This Stipulation and Order shall 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.

IX.

DATA PRACTICES NOTICES

A. This Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minn. Stat. § 13.41, subd. 5.

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

Signature on file

TODD VARNES, D.V.M.
Licensee

Dated: September 14, 2004.

ORDER

Upon consideration of the Stipulation and all the files, records and proceedings herein, the terms of the Stipulation are approved and adopted, and hereby issued as an Order of this Board effective this fifteenth day of September, 2004.

MINNESOTA BOARD
OF VETERINARY MEDICINE

Signature on file

JOHN KING, D.V.M.
Executive Director