

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
Mark A. Wagner, D.V.M.
License No. 14897

STIPULATION AND ORDER

STIPULATION

Mark A. Wagner, 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 Stipulation with Licensee is composed of Meg Glattly, D.V.M., Board Secretary Treasurer, John Lawrence, D.V.M., Board President, and John King, D.V.M., Executive Director of the Board. Daphne A. Lundstrom, Assistant Attorney General, represented the Complaint Review Committee in this matter.

Licensee was advised of his right to be represented by legal counsel and 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. Licensee was granted a license to practice veterinary medicine in Minnesota on May 10, 1997. By letter of that date, the Board's executive director advised Licensee that his license was valid until February 28, 1999.

2. In December 2006, the Board sent Licensee's biennial license renewal notice to his last known address on file with the Board. The notice stated that renewal was due by March 1, 2007.

3. Licensee did not renew by March 1, 2007, and the Board sent Licensee subsequent notices as required by Minn. R. 9100.0500, subp. 5.

4. As of May 9, 2007, Licensee has not renewed his license and it was suspended by the Board for non-payment in accordance with the procedures set forth in Minn. R. 9100.0500.

5. Licensee practiced veterinary medicine with a suspended license from May 9, 2007, until July 15, 2008, when Licensee's license was reinstated after submission of his application for reinstatement and payment of the renewal fee, late renewal penalty and reinstatement fee.

6. In a letter to the Board dated July 15, 2008, Licensee admitted practicing without a current license but stated that he did not receive the Board's December 2007 renewal notice or subsequent notices because he moved and forgot to inform the Board of his new address.

IV.

LAWS

A. Licensee acknowledges that the facts and conduct described in section III above constitute violations of Minn. Stat. § 156.081, subd. 2(12) (engaging in conduct that violates a rule promulgated by the Board) and Minn. R. 9100.0700, subp. 1.G (practicing under an expired, terminated, or suspended veterinary license).

V.

DISCIPLINARY ACTION

A. Based on the foregoing facts and violations, the Board takes the following disciplinary action against Licensee:

1. Licensee shall pay to the Board a \$750 administrative penalty. Payment shall be sent to the Board of Veterinary Medicine c/o John King, D.V.M., Executive Director, 2829 University Avenue S.E., Suite 540, Minneapolis, MN 55414, and is due no later than 30 days from the date of this Order.

2. No later than 60 days from the date of this Order, Licensee shall take and pass the Minnesota Jurisprudence Examination. Licensee is responsible for contacting Board staff to make arrangements to take the examination and is responsible for all costs associated with taking the examination and any necessary reexaminations, including the examination fee.

VI.

CONSEQUENCES OF A VIOLATION

A. *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 VI.B below shall apply to the hearing.

B. *Hearing Procedures.* The following procedures shall apply:

1. *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.

2. *Hearing Before Board.* The Board shall hold a hearing before its own members in accordance with the procedures set forth in paragraph VI.B.3 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 Minn. Stat. § 156.127.

3. *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 he 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.

4. *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.

C. *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 Minn. Stat. § 214.103, subd. 6 or to initiate a contested case proceeding under Minn. Stat. ch. 14 based on an alleged violation of this Stipulation and Order.

VII.

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, 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 in this matter 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 VII.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. 4.

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.

Mark Wagner DVM

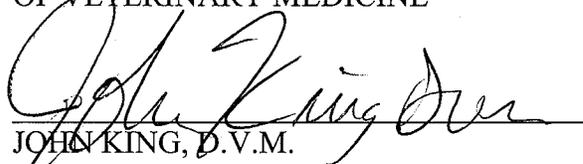
MARK A. WAGNER, D.V.M.
Licensee

Dated: 9/7/08, 2008.

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 10 day of September, 2008.

MINNESOTA BOARD
OF VETERINARY MEDICINE



JOHN KING, D.V.M.
Executive Director