



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

March 18, 2016

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Robert Kuderer, Esq.
Erickson, Zierke, Kuderer & Madsen, P.A.
7301 Ohms Lane, Suite 207
Minneapolis, MN 55439

**Re: In the Matter of Jonathan Woodman, D.V.M.
License No. 03694**

Dear Mr. Kuderer:

I enclose the Committee's proposed Stipulation and Consent Order ("Stipulation") relating to your client's practice of veterinary medicine in Minnesota. As I mentioned in my voicemail, this Stipulation incorporates, to a certain extent, the issues you raised in your email correspondence dated March 16, 2016.

If you and Dr. Woodman find this document acceptable, please have him sign it, and return it to Dr. Julia Wilson, Executive Director, Minnesota Board of Veterinary Medicine, Suite 401, 2829 University Avenue S.E., Minneapolis, Minnesota 55414 by **Friday, April 1, 2016**. The matter will then be presented to the full Board of Veterinary Medicine for review at the next Board meeting. If approved by the Board, you will be provided with a fully executed copy promptly after approval.

If Dr. Woodman decides not to settle at this time, please also notify me by April 1, 2016. I will then refer the matter to the Complaint Review Committee for further discussion. Please do not hesitate to contact me ahead of April 1, 2016, if you have any questions.

Sincerely,

ANDREW M. PETTIT
Assistant Attorney General

(651) 757-1295 (Voice)
(651) 297-2576 (Fax)

*Attorney for the Minnesota Board of Veterinary
Medicine Complaint Review Committee*

Enclosure

cc: Complaint Review Committee



**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**

In the Matter of
Jonathan Woodman, D.V.M.
License No. 03694

STIPULATION AND ORDER

STIPULATION

Jonathan Woodman, 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. On April 9, 2014, and February 23, 2015, 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 Wilson, D.V.M., Executive Director of the Board, was also present. Jennifer C. Middleton, Assistant Attorney General, appeared on behalf of the

Committee. Licensee was represented by Robert Kuderer, Esq., Erickson, Zierke, Kuderer & Madsen, P.A., Minneapolis, Minnesota.

4. On February 17, 2016, Licensee met with the Complaint Review Committee. The Committee was composed of Board members Michelle Vaughn, D.V.M., and Amy Kizer, D.V.M. Julia Wilson, D.V.M., Executive Director of the Board, was also present. Andrew Pettit, Assistant Attorney General, appeared on behalf of the Committee. Licensee was represented by Robert Kuderer, Esq., Erickson, Zierke, Kuderer & Madsen, P.A., Minneapolis, Minnesota.

III.

FACTS

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

a. On April 8, 2015, the Board adopted a Stipulation and Consent Order, (“2015 Order”) suspending Licensee’s license. The suspension was stayed so long as Licensee met the conditions in that Order. Licensee has yet to meet all of the conditions. The 2015 Order was based upon the following facts:

(1) Licensee was licensed to practice veterinary medicine in the State of Minnesota on June 12, 1994. Licensee conducts a small animal veterinary practice in Hastings, Minnesota.

(2) On September 9, 2013, Licensee assumed primary care post anesthesia and dental procedures for Sophie, a 9-year-old female Shih Tzu, and Kaiya, an 8-year-old female Shih Tzu.

(3) Sophie and Kaiya were anesthetized that day for dental cleaning, radiography, and dental extractions. A cutaneous mass was also removed from Kaiya. The procedures were performed in lateral recumbency Kaiya's procedures required positioning in left and right lateral recumbency. In order to maintain body temperature during anesthesia, both dogs were placed on a store-bought heating pad intended for human use. The duration of anesthesia was forty minutes for Sophie and two hours, one minute for Kaiya. Near the end of Kaiya's procedure, the technician noted that Kaiya's temperature was 105.3 degrees.

(4) Both Sophie and Kaiya suffered iatrogenic, extensive skin necrosis with vascular thrombosis on their trunk, presumably thermal burns as a result of procedures.

(5) Licensee provided the majority of the aftercare after the dental procedure; however, Licensee frequently discussed the dogs' condition and was involved in the management of care with another veterinarian at the same practice.

(6) Licensee failed to recognize that thermal injury was the likely etiology for the severe lesions and systemic abnormalities that subsequently developed in both dogs.

(7) Licensee was unable to reach any definitive diagnosis for the etiology of both dogs' abnormalities and did not consult any veterinary specialists or refer the owners to another veterinarian.

(8) On October 4, 2013, Kaiya died from suspected complications of severe ulcerative skin lesions.

(9) On the day following Kaiya's death, the owners consulted with another veterinarian regarding Sophie's injuries. The veterinarian diagnosed thermal burns and immediately referred Sophie another veterinary medical center.

(10) A board certified veterinary pathologist conducted a post mortem examination of Kaiya. The pathologist reported that the most significant necropsy and histopathology findings on Kaiya were bilateral, extensive dermal necrosis with vascular thrombosis, ulceration of haired skin along the trunk with positive cultures for two bacteria, *Proteus mirabilis* and *Staphylococcus intermedius*. He noted that the ulceration of the haired skin and dermal necrosis were presumably a result of antemortem thermal burns.

(11) A board certified veterinary critical care specialist conducted an examination of Sophie and concluded her skin lesions were suggestive of thermal injury (3rd degree burns).

(12) After receiving a complaint from the owner that the lesions were due to thermal injury, Licensee disposed of the heating pads and did not preserve the pads for forensic assessment.

(13) Licensee's medical records failed to include complete and comprehensive examination findings and communication with the owner. The medical record for Kaiya was altered after the animal's death was reported.

(14) On August 6, 2014, and August 18, 2014, Licensee provided medical care for Gunner, a 3 year-old male Golden Retriever, owned by C.S. and J.S.

(15) Gunner exhibited signs of wheezing, vomiting, and weight loss which Licensee diagnosed as gastroenteritis and prescribed antibiotics.

(16) Gunner failed to improve and continued to lose weight.

(17) On August 18, 2014, Gunner was re-evaluated by Licensee.

Licensee made a diagnosis of pancreatitis based on mild elevations of blood amylase and lipase. Mild elevations of these enzymes are not sensitive or specific for a diagnosis of pancreatitis and other common signs of pancreatitis were not present. Pancreatitis is not an infectious disease.

Licensee prescribed another antibiotic as well as an anti-ulcer medication and a non-steroidal anti-inflammatory drug.

(18) Gunner's condition continued to deteriorate despite treatment.

(19) On August 27, 2014, Licensee referred Gunner to a specialty referral hospital.

(20) On August 28, 2014, Gunner was examined at the specialty referral hospital, where he was immediately suspected of having the systemic fungal disease, blastomycosis, based on a markedly enlarged prescapular lymph node, abnormal lung sounds, and marked abnormalities seen on thoracic radiographs. Antifungal treatment was initiated.

(21) On August 29, 2014, Gunner's diagnosis of blastomycosis was confirmed via cytology of a fine needle aspirate of the enlarged lymph node.

(22) On August 29, 2014, Gunner was euthanized due to the very poor prognosis for his advanced stage of blastomycosis provided by the specialist and Gunner's severe reaction to treatment.

(23) Licensee's medical record failed to record any physical examination findings or differential diagnoses for August 6, 2014 and August 18, 2014.

b. Subsequently, the Board received another complaint regarding Licensee's practice and opened an investigation into his conduct. As a part of the investigation, on August 21, 2015, the Board inspected Licensee's practice. The inspection revealed that the Licensee's veterinary facility failed to meet minimum standards for infection control, sanitation, drug storage and integrity, and hazardous waste disposal.

c. During an investigatory interview on October 22, 2015, and during the conference with the Committee on February 17, 2016, Licensee acknowledged the following:

(1) Licensee's recordkeeping logs for controlled substances failed to meet the requirements for professional veterinary practice in the State of Minnesota.

(2) Licensee ordered medication through the clinic for self-use.

(3) Licensee kept expired drugs in multiple areas throughout the clinic.

(4) Licensee saved lengths of used suture from surgeries and used them on other patients.

(5) Licensee did not use a cap and mask while performing surgery.

IV.

LAWS

6. Licensee acknowledges that the facts and conduct described in section III above constitute violations of Minn. Stat. § 156.081, subs. 2(11) and (12); Minn. Stat. § 156.18; Minn. R. 9100.0200, Minn. R. 9100.0300, subp. 1; Minn. R. 9100.0700, subs. 1(A), (B), (C), (D), and (L) and Minn. R. 9100.0800, subs. 1, 2, and 4, and are 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:

7. The 2015 Order issued to Respondent on April 8, 2015, is hereby **RESCINDED** and shall have no future force or effect except as incorporated and restated herein.

8. The Board **REPRIMANDS** Licensee.

9. The Board hereby **SUSPENDS** Licensee's license to practice veterinary medicine. The suspension is **STAYED** so long as Licensee complies with the following **CONDITIONS**:

a. Licensee must refrain from ordering medication for use by humans

b. Licensee must submit to the Committee evidence of completion of all continuing education as described below. This continuing education includes the topics of critical care, antibiotic use, pain management, dermatology, endocrinology, fungal disease, canine gastroenterology, and physical examination. The continuing education must be interactive and preapproved by the Committee. In order to obtain preapproval, Licensee must submit written documentation, such as measurable learning objectives and qualifications of the instructor. These hours of continuing education may not be applied to the requirements for license renewal.

1) By April 8, 2016, Licensee must complete 23 hours of continuing education on the topics of: wound management (2 hours); cardiology (2 hours); dermatology (4 hours including the topic of cutaneous drug reactions); pain management (4 hours); antibiotic therapy (2 hours), fungal diseases including blastomycosis (2 hours), canine gastroenterology (5 hours), canine pancreatitis (1 hour), and physical examination (1 hour).

2) Within 6 months of the date of this Order, Licensee will attend at least one hour of interactive continuing education on the subject of hazardous waste disposal in veterinary practices and provide the Committee with a hazardous waste disposal plan for Licensee's facility. The plan must meet the approval of the Committee.

d. Within 60 days of the date of this Order, Licensee must identify and engage an infection control expert with experience in small animal veterinary practices preapproved by the Committee, and accomplish the following. The Committee preapproves Mary Larweck, Emerald Quality Services, as meeting the requirements for an infection control

expert. The infection control expert must be provided with a copy of this Stipulation and Order prior to initiating work with Licensee.

1) Meet with the infection control expert at Licensee's clinic to inspect the facility, discuss current infection control practices, sterile surgery precautions, and staff training.

2) Develop written protocols for infection control and plans to remedy any deficiencies identified by the infection control expert. These protocols must be approved by the infection control expert and the Committee.

e. Within 120 days of the date of this Order, Licensee must arrange for the same infection control expert to revisit the clinic to assess Licensee's success in implementing the plans. Licensee will cause the infection control expert to submit a written report to the Board within 30 days of this visit. The report must meet the approval of the Committee.

f. Within 60 days of the effective date of this Order, Licensee must meet at his practice with an investigator of the Drug Enforcement Administration to review requirements for controlled substances in veterinary facilities. The investigator must be provided with a copy of this Stipulation and Order prior to the meeting. Licensee will immediately implement all requirements to become compliant with recordkeeping regulations for controlled substances withdrawn for use on Licensee's patients.

g. Licensee must submit copies of 5 medical records from a week of the Board's choosing each quarter for 12 months. The medical records must meet the minimum standards for recordkeeping and be approved by the Committee.

10. Upon completing the requirements set forth in paragraph 9, Licensee may petition for an unconditional license. Licensee's petition may be granted, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof will be upon

Licensee to demonstrate by a preponderance of the evidence that he is capable of conducting himself in a fit and competent manner in the practice of veterinary medicine.

11. At the time of Licensee's petition, Licensee may be required to meet with the Board's Complaint Review Committee to discuss his petition. The Committee will make a recommendation to the full Board which will make a decision as discussed below.

12. Upon hearing Licensee's petition, the Board may deny Licensee's petition for reinstatement, reinstate Licensee's license with conditions and/or limitations imposed on his license, or reinstate Licensee's license as unencumbered.

13. In the event Licensee resides or practices outside the State of Minnesota, Licensee must promptly notify the Board in writing of the location of his residence and all work sites. Periods of residency or practice outside of Minnesota will not be credited toward any period of Licensee's suspended, limited, or conditioned license in Minnesota unless Licensee demonstrates that practice in another state conforms completely with Licensee's Minnesota license to practice veterinary medicine.

VI.

CONSEQUENCES FOR NONCOMPLIANCE

14. It is Licensee's responsibility to ensure all payments, reports, evaluations, and documentation required to be filed with the Board pursuant to this Stipulation and Order are timely filed by those preparing the report, evaluation, or documentation. Failure to file payments, reports, evaluations, and documentation on or before their due date is a violation of this Stipulation and Order.

A. Noncompliance With Requirements for Stayed Suspension

15. 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 as outlined in paragraph 9

above, the Committee may remove the stayed suspension pursuant to the procedures outlined in paragraph 16 below, with the following additions and exceptions:

a. The removal of the stayed suspension shall 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 shall remain in effect and shall 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 16 below. The Order of Removal shall confirm 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 of Licensee’s license. Licensee further agrees an Order of Removal issued pursuant to this paragraph shall be 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 shall schedule the hearing pursuant to paragraph 16.a. below to be held within 60 days of the notice of the Order of Removal.

B. Noncompliance With Stipulation and Order

16. 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 shall schedule a hearing before the Board. At least 20 days before the hearing, the Committee shall mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Licensee shall 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 shall not refer to matters outside the record. The evidentiary record shall 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 shall 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 prior to the conference, hearing, or meeting of the Board may be taken into account by the Board but shall 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 additional requirements for the stayed suspension, removal of the stayed suspension, an additional period of suspension, or revocation of Licensee's license.

f. Nothing herein shall limit 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. Similarly, 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.

g. *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.

VII.

ADDITIONAL INFORMATION

17. 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.

18. 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.

19. 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.

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

21. 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.

22. 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.

23. 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.

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.

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


JONATHAN WOODMAN, D.V.M.
Licensee

Dated: 4/7/16


MICHELLE VAUGHN, D.V.M.
Committee Member

Dated: 5/11/16

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