

BEFORE THE KANSAS BOARD OF VETERINARY EXAMINERS

In the Matter of the Licensure of:)
KATHERINE MOUNTAIN, D.V.M.) Case No. 21026
Kansas License No. 7064,)
Respondent)
_____)

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Board of Veterinary Examiners (“Board”) and Katherine Mountain, D.V.M. (“Respondent”) as follows:

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden & Forbes, LLP, 1414 SW Ashworth Pl., Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by her attorney, _____.
2. The Board is the Kansas agency vested with the authority, pursuant to K.S.A. 47-818(a), to carry out and enforce the provisions of the Kansas Veterinary Practice Act, K.S.A. 47-814 *et seq.* (“Act”), including conducting hearings and proceedings to revoke, suspend or otherwise discipline a Kansas license to practice veterinary medicine.
3. The Respondent is presently entitled to engage in the practice of veterinary medicine in the State of Kansas by reason of the Board having issued her Kansas license number 7064 (“Kansas License”).
4. The Board's Probable Cause Committee has received certain information, investigated, and determined that there are reasonable grounds to believe that Respondent has committed one or more acts described in K.S.A. 47-830 which would justify the imposition of disciplinary action against her Kansas License under the provisions of K.S.A. 47-830 and the assessment of an appropriate fine against Respondent under the provisions of K.S.A. 47-842.

Matter of Katherine Mountain, D.V.M., No. 21026 (Kansas Board of Veterinary Examiners)

STIPULATION AND CONSENT ORDER

5. Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board, and upon motion duly made, seconded, and passed, the Board finds, that:

A. K.S.A. 47-840 requires each veterinary premise to be registered with the Board and have a licensed veterinarian who is responsible for the operation and management of the premise (“OMV”).

B. K.A.R. 70-6-1(k) requires that at a veterinary premise, the veterinarian shall be responsible for the storage, safekeeping, and preparation of all drugs. K.A.R. 70-7-1(l)(1) provides that a prescription drug for use by a companion animal may be dispensed only on the order of a licensed veterinarian who has an existing veterinary-client-patient relationship. K.A.R. 70-7-1 (f) provides that a veterinarian shall not allow any professional services to be controlled or exploited by a lay person.

C. On December 7, 2020, the Board received from Respondent an application to register the Tender Loving Care Pet Nursing Hospital (“Clinic”) as a veterinary premise with Respondent as the OMV (“Application”).

D. In response to the Application, on December 8, 2020, the Board issued Veterinary Premise Certificate 2036 for the Clinic in Respondent’s name as the OMV.

E. On July 1, 2021, the Board received a complaint for a registered veterinary technician who worked at the Clinic (“Complaint”). Based upon the Complaint, and the investigation of it, it was established that the operator of the Clinic, a lay person, was causing companion animals at the Clinic that were deemed unruly to be given the prescription drug Trazadone when those animals did not have a prescription for Trazadone. Dispensing Trazadone to a companion animal that does not have a prescription for the drug is a violation of the Act and

the Board's regulations. These violations occurred at the Clinic as a result of Respondent failing to fulfill the duties as an OMV, as a result of Respondent allowing professional services to be controlled by a lay person in violation of K.A.R. 70-7-1(f), and as a result of Respondent failing to adequately supervise the personnel at the Clinic in violation of K.A.R. 70-7-1(n)(1).

6. Upon motion duly made, seconded, and passed, the Board finds that Respondent's conduct as described in paragraph 5 above violated the Act and, as a result, her Kansas License is subject to discipline pursuant to K.S.A. 47-830(o) as defined at K.S.A. 47-830(o)(4) for violation of K.A.R. 70-7-1(f) and pursuant to K.S.A. 47-830(o) as defined at K.S.A. 47-830(o)(4) for violation of K.A.R. 70-7-1(n)(1).

7. The Respondent agrees and consents, and the Board finds and concludes, that the following disposition is just and appropriate under the circumstances:

A. ADMINISTRATIVE FINE. Respondent agrees and the Board further orders that Respondent shall pay to the Board an administrative fine in the amount of Two Hundred Fifty Dollars (\$250.00) for each violation for a total of Five Hundred Dollars (\$500.00) to be paid within 30 calendar days of the effective date of the Consent Order contemplated hereby.

B. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Consent Order she must, and the Board further orders the Respondent to:

1. Comply fully with this Stipulation and Consent Order; and
2. Comply fully with the Act, the Board's rules and regulations and all

state and federal laws relating to the practice of veterinary medicine in the State of Kansas.

8. The stipulations and orders contained herein shall not become binding until this Stipulation and Consent Order is approved and entered by the Board through the signature of its

designated representative, Mark R. Olson, D.V.M. The Respondent acknowledges that the approval of the Board's attorney shall not constitute the approval of the Board or bind the Board to approve this Stipulation and Consent Order.

9. The Respondent agrees that this Stipulation and Consent Order is in conformance with Kansas and federal law and the Board has jurisdiction to enter into it. The Respondent further agrees that the Act is constitutional on its face and as applied in this case.

10. This stipulation constitutes the entire agreement of the parties and may only be modified by a subsequent writing signed by them. The agreement shall be interpreted in accordance with the laws of the State of Kansas.

11. The Respondent acknowledges that she has the following rights:

- A. To have formal notice of charges served upon her;
- B. To file a response to the charges;
- C. To have notice of and participate in a formal adjudicative hearing with the Board making specific findings of facts and conclusions of law based only upon evidence admitted at such hearing; and
- D. To take advantage of all applicable provisions of the Kansas Administrative Procedure Act and the Kansas Judicial Review Act.

The Respondent freely waives these rights and acknowledges that said waiver is made voluntarily and in consideration of the Board's limiting the disciplinary action taken against her to those provided for herein. The Respondent further waives the right to seek reconsideration or appeal or otherwise contest this Stipulation and Consent Order.

12. The Respondent acknowledges that she enters into this Stipulation and Consent Order freely and voluntarily after consultation with or an opportunity to consult with counsel of

her choosing. The Respondent further acknowledges that she has read this Stipulation and Consent Order in its entirety, that she understands its legal consequences and that she agrees that none of its terms are unconscionable, arbitrary, or capricious.

13. Time is of the essence to this Stipulation and Consent Order. Respondent acknowledges and agrees that any violation of this Stipulation and Consent Order shall constitute a willful violation of a lawful Board order and grounds for further disciplinary action against her. The pendency of any disciplinary action arising out of an alleged violation of this Stipulation and Consent Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Stipulation and Consent Order.

14. This Stipulation and Consent Order constitutes the entire and final agreement of the parties. In the event any provision of this Stipulation and Consent Order is deemed invalid or unenforceable by a court of competent jurisdiction, it shall be severed and the remaining provisions of this Stipulation and Consent Order shall be given full force and effect.

15. Upon execution by all parties and entry as an order by the Board, this Stipulation and Consent Order shall be a public record in the custody of the Board.

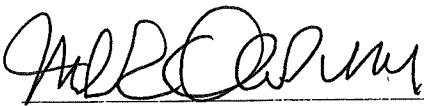
16. This Stipulation and Consent Order shall become effective on the day it is approved, accepted, and made an order of the Board by way of signature of the Board's Executive Director, Mark. R. Olson, D.V.M.

17. The Respondent acknowledges that she has been advised by the Board that she would have the right, after the Board's approval and within 15 days after service of this Stipulation and Consent Order, to file a petition for reconsideration with the Board and the right, within 30 days after service of the Stipulation and Consent Order, to file a petition for judicial review in a District Court of Kansas in accordance with the Kansas Judicial Review Act, K.S.A. 77-601 *et*

seq., and to serve such a petition for judicial review on the Board by serving its Executive Director, Mark R. Olson, D.V.M., PO Box 379, Wamego, KS 66547-0379. The Respondent hereby waives those rights.

ENTERED AND EFFECTIVE this 20th day of December, 2021

KANSAS BOARD OF VETERINARY EXAMINERS

By: 
MARK R. OLSON, D.V.M.
Executive Director

AGREED AND APPROVED BY:

Katherine Mountain DVM
KATHERINE MOUNTAIN, D.V.M.

12-10-21

Date

Date

Respondent's Attorney

Randall J. Forbes
Randall J. Forbes KS# 09089 MO# 64335
FRIEDEN & FORBES, LLP
1414 SW Ashworth Pl., Suite 201
Topeka, Kansas 66604
TEL: (785) 354-1100
FAX: (785) 354-1113
**Disciplinary Counsel for the Kansas
Board of Veterinary Examiners**

12/14/2021

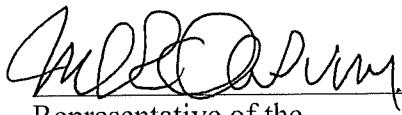
Date

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **STIPULATION AND CONSENT ORDER** was served by depositing same in the United States mail, postage prepaid, this 20th day of December, 2021, addressed to:

Randall J. Forbes
FRIEDEN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604

Katherine Mountain, D.V.M.
[REDACTED]



Representative of the
KANSAS BOARD OF
VETERINARY EXAMINERS