

In the Matter of the Petition for Modification of Probation of
ELISE KENT

VETERINARY MEDICAL BOARD

Case No: AV 20151

OAH No: 2020060058

Attorney General's Exhibits

| ATTORNEY GENERAL'S EXHIBIT NO. | DOCUMENT | MARKED | ADMIT |
|---|---|---------------|--------------|
| 1 | Amended Notice of Hearing | | |
| 2 | License History Certification | | |
| 3 | Probation Status Report | | |
| 4 | Petition for Early Termination of Probation and Attachments in Support | | |
| 5 | Stipulated Settlement & Disciplinary Order; First Amended Accusation | | |

EXHIBIT 1



June 10, 2020

Elyse M. Kent, DVM
4139 Via Marina Apt 403
Marina Del Rey, CA 90292-5368

**RE: AMENDED HEARING NOTICE
OAH Case No. TBD
Petition for Termination of Probation – Elyse M. Kent , DVM VET 7368**

Dear Dr. Kent:

You are hereby notified that a hearing will be held before the Veterinary Medical Board, Department of Consumer Affairs:

NOTE: Pursuant to Governor Gavin Newsom’s Executive Order N-29-20, issued on March 17, 2020, this hearing will be held by videoconference with no physical public locations. Instructions on how to participate are attached and can also be found on our website.

Date: July 2, 2020

Time: 10:30 am.

Location (Videoconference link): <https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=eb7192be440b87d77ae08444e3cf87074>

The hearing will be conducted before the Veterinary Medical Board, Department of Consumer Affairs and an administrative law judge of the Office of Administrative Hearings, who will preside over the Petition for Termination of Probation matter.

If you object to the petition being heard by videoconference, you must notify the presiding officer within ten (10) days after this notice is served on you. Failure to notify the presiding officer within ten (10) days will deprive you of a change in the place of hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents, or other things by applying to:

**Office of Administrative Hearings
Attn: General Jurisdiction
2349 Gateway Oaks, Suite 200
Sacramento CA 95833**

INTREPRETER: Pursuant to section 11435.20 of the Government Code, the hearing shall be conducted in English language. If a party or party’s witness does not proficiently speak or understand the English language and before commencement of the hearing requests language

assistance, an agency subject to the language assistance requirement in section 11435.15 of the Government Code shall provide a certified interpreter or an interpreter approved by the administrative law judge conducting the proceedings. The cost of providing the interpreter shall be paid by the agency having jurisdiction over the matter if the administrative law judge or hearing officer so directs, otherwise by the party for whom the interpreter is provided. If you or a witness requires the assistance of an interpreter, ample advance notice of this fact should be given to the Office of Administrative Hearings so that appropriate arrangements can be made.

CONTINUANCES: Under section 11524 of the Government Code, the agency may grant a continuance, but when an administrative law judge of the Office of Administrative Hearings has been assigned to the hearing, no continuance may be granted except by him or her or by the presiding judge for good cause. When seeking a continuance, a party shall apply for the continuance within 10 working days following the time the party discovered or reasonably should have discovered the event or occurrence which establishes good cause for the continuance. A continuance may be granted for good cause after the 10 working days have lapsed only if the party seeking the continuance is not responsible for and has made a good faith effort to prevent the condition or even establishing the good cause.

Please visit the Board's website at www.vmb.ca.gov to get a copy of the agenda or feel free to contact me at (916) 515-5244.

Sincerely,

Virginia Gerard

Virginia Gerard
Probation Monitor

cc: Bonnie Lutz, JD
Anahita Crawford, Deputy Attorney General
Office of Administrative Hearings



DECLARATION OF SERVICE BY CERTIFIED MAIL

RE: Elyse M. Kent, DVM

LICENSE NO: VET 7368

I, the undersigned declare that I am over 18 years of age; my business address is 1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834. I served a true copy of the attached Notice of Hearing by Certified Mail on the following, by placing same in an envelope addressed as follows:

NAME AND ADDRESS

CERTIFIED NUMBER:

Elyse M. Kent, DVM
4139 Via Marina Apt 403
Marina Del Rey, CA 90292-5368

7018 0680 0002 2403 9730

Elyse M. Kent, DVM
4139 Via Marina Apt 403
Marina Del Rey, CA 90292-5368

First Class

Said envelope was then, June 10, 2020, sealed and deposited in the United States Mail at 1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834, the county in which I am employed, as certified mail with postage thereon fully prepaid, return receipt requested.

Executed on June 10, 2020, at Sacramento, California.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

DECLARANT:

Dillon Christensen
Enforcement Analyst
Veterinary Medical Board

EXHIBIT 2



CERTIFICATION OF LICENSE HISTORY

This is to certify that I, Robert Stephanopoulos, Enforcement Manager of the Veterinary Medical Board (Board), Department of Consumer Affairs, State of California, share the responsibility of maintaining control and custody of the official records of the Board. I made or caused to be made a diligent search of the files and records concerning the license history of Elyse M. Kent, DVM. I have determined that the official records prepared by Board employees, acting within the scope of their duties, show the dates and time periods listed herein for the issuance, expiration, periods of invalidity, and renewals of the license, as well as citations issued and periods of formal Board discipline:

Vet No. 7368:

Elyse M. Kent, DVM
4139 Via Marina, Apt 403
Marina Del Rey, CA 90292-5368

First Issued: August 8, 1980
Expiration: November 30, 2020
Status: Current
Secondary Status: Probation

License Relations

Managing Licensee to:

HSP 7958

Elite Veterinary Care
4139 Via Marina, Apt 403
Marina Del Rey, CA 90292-5368

Issued: October 28, 2015
Expiration: May 31, 2021
Status: Current

Discipline:

On September 23, 2017, a Decision After Non-Adoption became effective in the matter of the First Amended Accusation against Dr. Kent filed on October 3, 2016, case number AV 2015 01.

Given under my hand at Sacramento, California, this 8th day of June, 2020.



Robert Stephanopoulos, Enforcement Manager

EXHIBIT 3



PETITION FOR MODIFICATION OF PENALTY PROBATION COMPLIANCE STATUS REPORT

PETITIONER: Elyse M. Kent, DVM, VET

TYPE OF PETITION: Termination of Probation

CASE NUMBER: AV 2015 1

CONDITIONS AND STATUS:

- Obey All Laws** : In compliance.
- Quarterly Reports & Interviews** : In compliance.
- Cooperation w/ Probation Surveillance** : \$3200 due by time of this report; \$3400 received. In compliance.
- No Preceptorships** : In compliance.
- Notice to Employers** : In compliance. N/A: self employed at *Elite Veterinary Care*, formerly *Elite Cat Care*.
- Notice to Employees** : In compliance. N/A.
- Owners and Officers** : In compliance: N/A.
- Cost Recovery** : Amount in Decision is \$7042.20. Decision states she may make payments with an approved payment plan. A monthly payment would put costs due at the time of this report at \$3,755.84. We have received \$4,275.00. In compliance. \$2,766.70 owed.
- Limitations on Practice** : In compliance.
- No [new] Ownership** : In compliance.
- No Management or Admin** : In compliance. Not MGL of any premises other than *Elite Veterinary Care*.
- Continuing Education** : Decision calls for 4 CE hours per year. We received certificates for 37.5 approved CE hours to date. In compliance.
- Rehabilitation Program** : Successfully completed intensive outpatient program

with *Matrix Institute* on March 27, 2018. Participates in individual therapy with J.S., Psy.D., and participates in long term recovery group with same. In compliance.

Submit to Drug Testing

: Review of FirstSource records indicate 4 missed collections (out of 90) on the following dates: 7/13/18; 8/5/19; 9/7/19; and 10/2/19.

Abstain from Controlled Subs

: All tests negative but for one (4/24/18) which was consistent with meds from hip replacement surgery. In compliance.

Abstention from Alcohol Use

: In compliance.

Ethics Training

: Decision calls for 4 CE hours in ethics per year. We received certificates of completion for 33 to date. In compliance.

This status report is based on all available information in the file.

Submitted by: Virginia Gerard Date 6/9/20
Probation Monitor

EXHIBIT 4

VETERINARIAN/REGISTERED TECHNICIAN BACKGROUND

Total number of years in veterinary practice: 39 1/2

CONTINUING EDUCATION (List continuing education completed since the date of the disciplinary action)

SCVMA Ethics Course/VIN Ethics Course
Veterinary Record Keeping - Courses 1 and 2
AAFP, 2019 - Various Courses
Zoetis

See attached documents for details and dates.

CURRENT OCCUPATION OTHER THAN VETERINARIAN OR REGISTERED VET TECHNICIAN

(Answer only if currently not practicing as a Veterinarian or Registered Vet Technician)

List employer, address, e-mail address, phone number, job title, and duties:

EMPLOYMENT HISTORY (list for the past 5 years only)

Provide the employer's name, address, phone number, job title and dates of employment:

Barry Baum, DVM - 10737 Venice Blvd., Los Angeles, CA 90034, (310) 559-3770
Associate Veterinarian, December 2015 - present

Self - Elite Veterinary Care, 4139 Via Marina, Suite 403, Marina del Rey, CA 90292, (310) 962-9095
Mobile Veterinarian, September 2015 - present

T.H.E. Cat Hospital, 4716 B Lincoln Blvd., Marina del Rey, CA 90292, (310) 773-9286
Associate Veterinarian, December 2013 - August 2015

REHABILITATION

Describe any rehabilitative or corrective measures you have taken since your license/registration was disciplined. List dates, nature of programs or courses, and current status. You may include any community service or volunteer work.

- Matrix Intensive Outpatient Program
- Matrix Aftercare Program
- Alcoholics Anonymous
- Individual Therapy (to present)
- Group Therapy (to present)

See attached documents for details and dates.

CURRENT COMPLIANCE

Since the effective date of your last Veterinary Medical Board disciplinary action have you:

- | | | |
|---|------------------------------|--|
| 1. Been placed on criminal probation or parole? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Been charged in any pending criminal action by any state, local or federal agency or court? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 3. Been convicted of any criminal offense? (A conviction includes a no contest plea; disregard traffic offenses with a \$100 fine or less.) | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 4. Been charged or disciplined by any other veterinary board? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 5. Surrendered your license to any other veterinary board? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 6. Had your licensee manager's premise permit disciplined? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 7. Had any civil malpractice claims filed against you of \$10,000 or more? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 8. Become addicted to the use of narcotics or controlled substances? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 9. Become addicted to or received treatment for the use of alcohol? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 10. Been hospitalized for alcohol or drug problems or for mental illness? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

NOTE: If your answer is "Yes" to any of the above questions, please explain in the "Narrative Statement."

COST RECOVERY

Was cost recovery ordered? Yes No If yes, what is the remaining balance? \$3,395.45
When is payment anticipated? Paying monthly.

DECLARATION

Executed on February 2020, at Marina del Rey, California
(City) (State)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that all statements and documents attached in support of this petition are true and correct.

Elyse M. Kent, DVM

Petitioner (print name)


Signature

The information in this document is being requested by the Veterinary Medical Board (Board) pursuant to Business and Professions Code section 4887. In carrying out its licensing or disciplinary responsibilities, the Board requires this information to make a determination on your petition for reinstatement or modification of penalty. You have a right to access the Board's records containing your personal information as defined in Civil Code section 1798.3. The Custodian of Records is the Executive Officer at the address shown on the first page.

Petition for Modification of Penalty

Narrative Statement

Discipline was imposed on my veterinary license on the grounds of two convictions for driving under the influence, abuse of cocaine, violations of state drug laws, and failure to keep adequate medical records for a patient prior to anesthesia. Probation began on September 23, 2017.

I have met all the terms of probation and have made many additional efforts toward education and rehabilitation, as outlined below and documented in attachments. I am requesting that probation be terminated. If probation is to continue for the entire 5 years, I request that the requirements for 4 hours of continuing education per year on record keeping and ethics be removed. I would like to focus my ongoing continuing education on veterinary medicine.

I attended an intensive outpatient drug and alcohol rehabilitation program at Matrix institute in West Los Angeles, from October 13, 2017 through February 26, 2018. I met with the rehabilitation group, led by Dr. Janice Stimson, on Monday, Wednesday and Thursday evenings, for the duration of the 16-week program. Upon graduation from the intensive outpatient program, I attended weekly aftercare groups at Matrix Institute for on Wednesday evenings, until the Institute closed permanently on April 26, 2018.

Beginning on May 9, 2018, I began to attend individual weekly therapy sessions with Dr. Stimson, and these sessions have taken place continuously to the time of this petition.

I attended weekly group recovery therapy sessions lasting 2.5 hours, for alumni of Matrix Institute, from August 1, 2018 until the group was terminated on September 25, 2019. We each checked in with our ongoing recovery issues and read and discussed multiple books on managing ongoing recovery.

See Attachment for attendance dates and hours completed in rehabilitation education and therapy.

I have called in to First Source Solutions Random Notification System, with some exceptions, since probation began on 9-23-17. When I did not remember to call in by 3 pm on a given day, I was unable to determine whether or not I had been selected for testing.

On January 31, 2020, I received an email from Virginia Gerard, stating that I had not provided biological samples on 7-13-18, 8-5-19, 9-7-19 and 10-2-19. I checked my receipts and chain of custody forms, and verified that I had not been tested on those days.

My prompt response to Virginia's email was sent on January 31, and was as follows:

January 31, 2020

Dear Ginger,

The reason for not providing biological samples on 7-13-18, August 5, 2019, September 7, 2019 and October 2, 2019 was that I forgot to call FSS Random Notification System, prior to the 3 pm cutoff time. I did test on 7-14-18 and August 4, 2019, both within one day of a missed selection call.

I have provided samples each and every time I have made the call and been notified that I was selected to test.

In the summer and fall of 2019, I was working not only my own shifts, but also those of a doctor who left our practice. I often worked until 9 pm and was on duty again at 8 am the following morning. During that time, I was not always remembering to call in the morning.

Since November, 2019, I have implemented an audible alarm in my phone that prompts me to call FSS at 7 am each day. I am committed to calling every day.

I declare that the above is true and correct under the penalty of perjury under the Laws of the State of California.

All tests have been negative for alcohol and drugs.

All costs for recovery and probation monitoring are current, having been paid once a month, on time.

I have submitted each quarterly report on time, showing compliance with every term and condition of probation. I have had no disciplinary action against my veterinary license and have not violated any federal, state or local laws during probation.

I exceeded the required continuing education specified in the terms of my probation, 4 hours of ethics training and 4 hours of record keeping training per year, as outlined below.

1. Completed 21 hours of ethics training by completing The Society for Veterinary Medical Ethics Online course: Veterinary Medical Ethics and Bioethics honoring the human-animal bond, on August 29, 2018.
2. Completed 5 hours of record keeping training by completing the VeterinaryRecordKeeping.com online course: Veterinary Patient Medical Record/Veterinary Record Keeping course 1 on September 4, 2018.
3. Completed 16 hours of ethics training by completing the Veterinary Information Network online course: PRAC116-2018 Veterinary Ethics (Non-Interactive), August 15, 2019.
4. Completed 5 hours of record keeping training by completing the Medical VeterinaryRecordKeeping.com online course: Veterinary Patient Medical Record/Veterinary Record Keeping course 2, August 30, 2019.

I attended 27 hours of additional veterinary continuing education at the American Association of Feline Practitioners Symposium in San Francisco, Ca., October 31-November 3, 2019. See attachment for details.

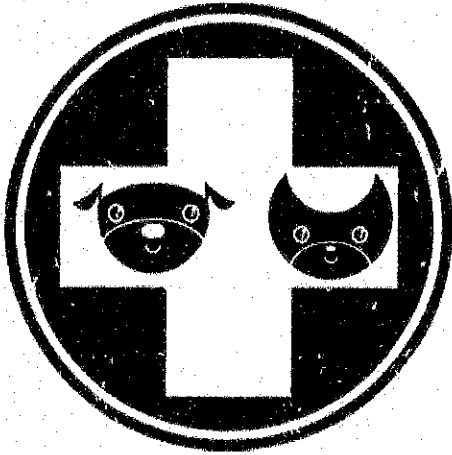
I read the Journal of Feline Medicine and Surgery every month, and research current journal articles on ViN that pertain to the cases I am working on.

I travelled to Namibia and Botswana, Africa, to participate in veterinary wildlife conservation and research studies on a Veterinary Safari from April 23-May 5, 2019, led by a South African Wildlife Veterinarian, Dr. Peter Brothers. I attended lectures on African wildlife, donated resources, time and expertise to benefit The Africat Foundation in Okonjima, Namibia.

I have continued to grow my mobile veterinary practice, Elite Veterinary Care, throughout my probation. I contribute to the health and welfare of dogs and cats daily, by providing veterinary services in homes. I also provide quality of life assessments and home hospice care and euthanasia. See www.eliteveterinarycare.com for more details.

I have hospital privileges at Center Sinai Animal Hospital in Los Angeles, Ca., where I perform surgeries, dental procedures, ultrasound studies, radiographic studies and hospitalization of animals. Dr. Barry Baum is the owner of Center Sinai. See the attached letter from Dr. Baum.

During my time at Center Sinai, I regularly care for pets at discounted fees for various pet adoption organizations. Perfect Pet Rescue, Ladera Pet Project and The Powerful Rescue are organizations I work with on a weekly basis.



ELITE VETERINARY CARE

CONTACT

PHONE:
310-962-9095

WEBSITE: www.eliteveterinarycare.com

EMAIL:
info@eliteveterinarycare.com

ELYSE KENT, DVM

EDUCATION

Internship, Small Animal Medicine and Surgery.
West Los Angeles Veterinary Medical Group.
June, 1980-June, 1981.

Michigan State University College of Veterinary Medicine
June, 1977-June, 1980.

WORK

Elite Veterinary Care
Marina Del Rey, Ca.
August 2014-present
I own and operate a mobile veterinary service, providing veterinary care to pets on the Westside of Los Angeles.

Center Sinai Animal Hospital
Los Angeles, Ca.
January, 2015-present.
Perform diagnostic testing, dental procedures, surgeries and hospitalization for patients of Elite Veterinary Care.

Westside Hospital for Cats, Inc.
September, 1985-December, 2013.
I founded and operated the only feline veterinary hospital in Los Angeles for 28 years. I was the chief medical officer and sole administrator in 2 facilities.

SKILLS

Clinical: Canine and feline internal medicine, surgery, dentistry, Ultrasound.

Administrative: Practice start-up, management, human resources.

CENTER SINAI ANIMAL HOSPITAL
10737 VENICE BLVD
LOS ANGELES, CALIFORNIA 90034

October 10, 2019

To: The Veterinary Medical Board

It is my pleasure to write this letter of reference for Dr. Elyse Kent.

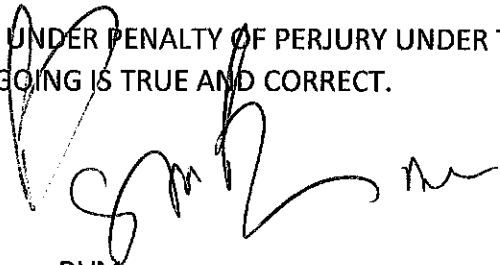
Dr Kent has been associated with Center Sinai Animal Hospital since 2015. During that time, I have been able to observe her professional abilities as well as her ability to interact with colleagues, lay staff as well as her interaction with clients. In all respects I have found her to be a big asset to the hospital.

In regard to her professional abilities she is top notch. She has been a good mentor to our newer graduates both in her medical and surgical abilities as well as her positive attitudes and work ethic. As the owner of the practice, I really appreciate the examples that she sets for the other doctors regarding reliability, punctuality and an overall willingness to help out where ever and whenever she is needed.

Her clients are very loyal to her and her following has grown due to the devotion she shows for her patients as well as the medical skills that she practices. She has brought a new service to the hospital in the form of a mobile practice. Our clients are very appreciative to Dr Kent for her skill and compassion and they have been enthusiastic in conveying that message to me.

Should you have any further questions about Dr Kent, please don't hesitate to contact me.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.



Barry M Baum DVM

Chief of Staff Center Sinai Animal Hospital

10737 Venice Blvd Los Angeles, Ca 90034

310 559-3770

CSAHDOGCAT@AOL.COM

Veterinary Medical Board
1747 N. Market Blvd. Ste 230
Sacramento, CA 95834-2987

February 2, 2020

Dear Board Members,

I recently had the pleasure of having lunch with Dr. Elyse Kent. We discussed her successful efforts to comply with the requests of the VMB, while working hard to successfully grow her veterinary house call service. She has also maintained good relations with Dr. Baum and staff at Center Sinai Animal Hospital, where she is currently an associate. I was able to check out her well thought out mobile veterinary truck and discuss her current methods for a successful house call, including mobile billing and ways to perform exams in poorly lit households.

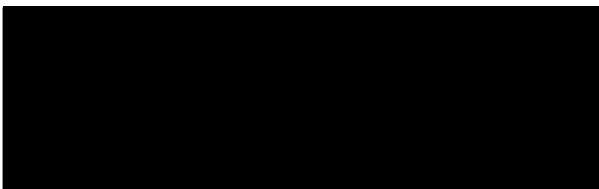
Elyse's demeanor came across as very calm, confident and content, and I thoroughly enjoyed our lunch together. I was also very impressed with her ability to maintain a regular fitness routine, despite her busy work schedule.

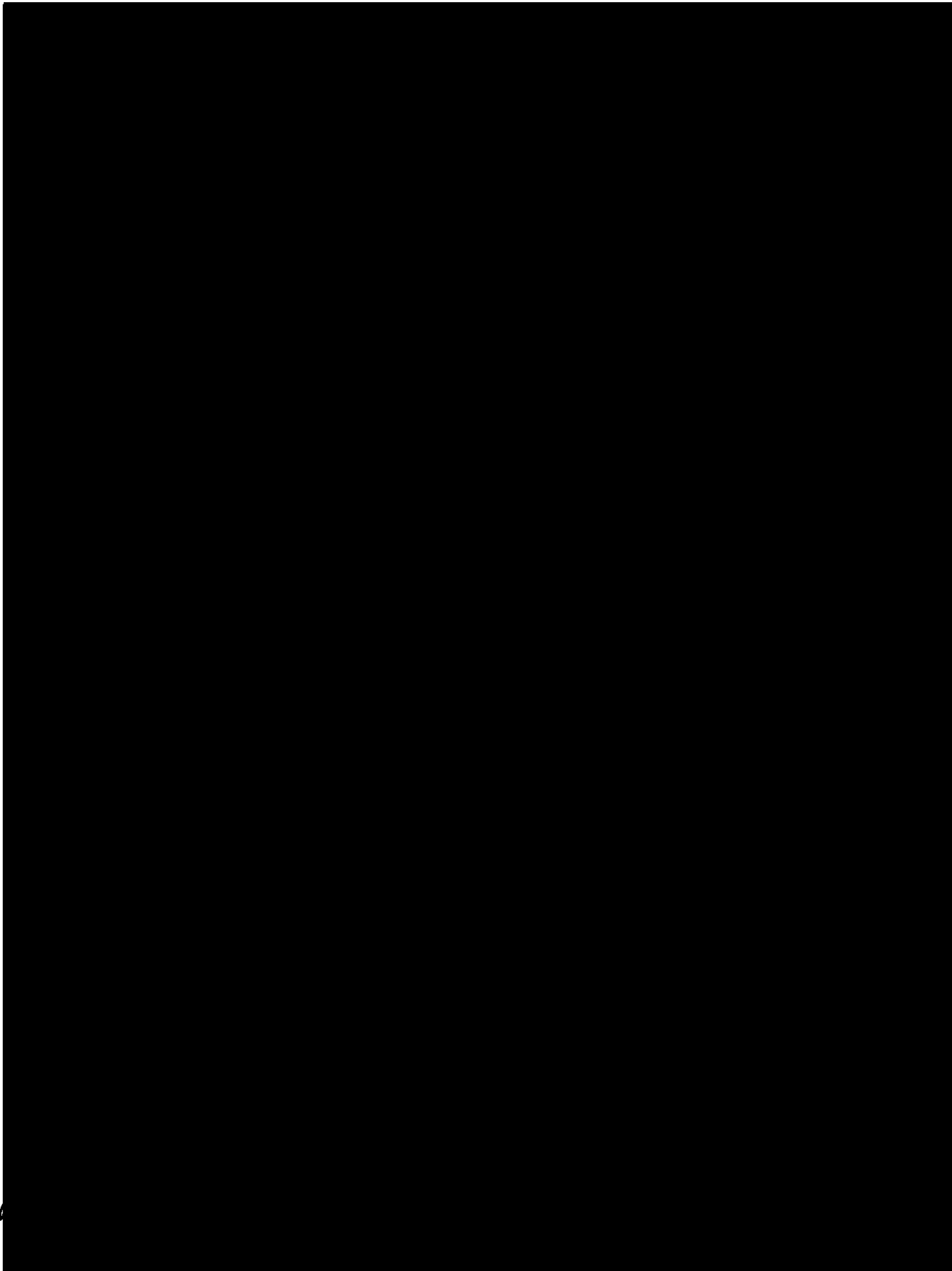
Please feel free to contact me with any questions regarding this letter.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Diane Steinberg, DVM

Diane Steinberg, DVM, ABVP - Feline Practice





Cynthia E. Trammell
4324 W. 59th Place
Los Angeles, CA 90043
(310) 701-8160
ctrammell@mac.com

January 12, 2020

Veterinary Medical Board
1747 N. Market Blvd., Suite 230
Sacramento, CA 95834-2987

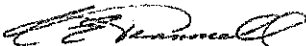
To Whom It May Concern:

I am writing this letter of support on behalf of Dr. Elyse Kent, DVM. Dr. Kent works tirelessly providing excellent patient care and support to her clients. She has established Elite Veterinary Care, a highly recommended thriving mobile veterinary business. Dr. Kent's professional service, exemplary medical care, as well as the emotional and educational support she graciously imparts to her clients have all contributed to the success of Elite Veterinary Care.

Dr. Kent's outstanding attention to the health and welfare of her patients is always her top priority. This is proven by the success of her business which is growing exponentially since its inception. She provides a vital service to the veterinarian community at large. All the while she has not allowed the restrictions that have been placed upon her by the Veterinary Medical Board (VMB) to cause her to deviate from her philosophy of being the best in her field through her work and contributions.

Dr. Kent has met all of her goals, both personal, professional, and those tasked by the VMB. It is my hope that the Board seriously considers removing the restrictions that have been placed upon her. I believe it's important to note that Dr. Kent has continued to excel and has more than proven she is competent to continue her invaluable work.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Cynthia E. Trammell

Certificate of Completion
Matrix Institute
Intensive Outpatient Treatment

This is to certify that:

Elyse Kent

*Successfully completed Matrix's Intensive Education and Therapy in the field of Addiction
on this 26th day of February, 2018.*

*Let this document attest to the dedication and determination of the above named person
to regain personal control and sober life. It is not the end. It is only the beginning.*

Amela Gade, Ph.D.
Primary Therapist

Janice Dinkson, Esq.
Clinical Director

2-26-18

Date

02-26-2018

Date



Matrix Institute
 1849 Sawtelle Blvd. Suite 100
 West Los Angeles, CA 90025

DISCHARGE SUMMARY

To be completed when treatment is discontinued

Payor: Blue
 Cross/Scholarship

Diagnosis: F10.10 Alcohol Use Disorder, Moderate

1. Patient Name Kent, Elyse Adult 2. Counselor Janice Stimson PsyD.
 3. Age 61.00 4. Gender: Female
 5. Employed No 6. In School No 7. Race/ethnicity: White
 8. Drug of Choice: alcohol Route: Oral

9. Outcome

Successful (Stopped drug use; or, returned to work/school; or attended 75% or more of scheduled program)

10. Discharge Status:

- Completed scheduled (or insurance covered) weeks of treatment
- Premature termination not related to insurance benefits or payment issues

Reason:

11. Treatment Start Date 11/13/17 12. Date of last face-to-face visit 3/26/18

13. Weeks planned 16

14. Drug/Alcohol Use: (30 days prior to last-face-to-face)

- 1. Drug of choice (or alcohol, if primary problem):
- 2. Other drugs
- 3. Alcohol

Yes No
 Yes No
 Yes No

15. Final Urine/Breath Alcohol Results:

A. Urine Result: Gets tested from VB Date: B. Breath Alcohol Results: Date:

16. Global Assessment of Outcome.

| | | | |
|-------------------------------|---------------|--------------------------------|---------------|
| Employment/Educational Status | Very Good (5) | Relationships/Family | Very Good (5) |
| Abuse of Prime Substance | Very Good (5) | Secondary Drug/Alcohol Problem | Very Good (5) |
| Psychiatric Problems | NA | Legal Problems | NA |
| Living Arrangements | Very Good (5) | Physical Health | Neutral (3) |
| Considering All of the Above | Very Good (5) | | |

Additional Comments

Elyse was on a random UA testing through the veterinary board. She will be having hips replacement surgery soon.

Global Assessment of Functioning (GAF; Axis V):

At Admission

At Discharge

17. Family Involvement:

18. Client's current

a) Strengths:

Intelligent. Loves her work. Training a young body builder.

b) Needs:

Individual psychotherapy.

c) Abilities:

Verterinarian

d) Preferences:

Social Support, AA, Individual therapy.

19. Areas where support services are needed:

a) Medical

Recommended services:

Contact name:

Phone No.:

Hours/days available:

b) Psychological

Recommended services:

Contact name:

Phone No.:

Hours/days available:

c) Recovery

Recommended services:

Contact name:

Phone No.:

Hours/days available:

d) Recovery

Recommended services:

Contact name:

Phone No.:

Hours/days available:

20. Medical information:

a) Recovery medication (e.g., buprenorphine, Antabus, naltrexone):

No

Describe :

b) Psychiatric medication (e.g., buprenorphine, Antabus, naltrexone):

No

Describe :

c) Other medication:

No

Describe :

Jana S. Smith, B.S.

3/29/18

Title: Clinic Director

Attendance - Rehabilitation Education and Therapy

| Matrix Intesive Outpatient Program | Date | Hours |
|------------------------------------|------------|-------|
| | 11/1/2017 | 3 |
| | 11/2/2017 | 3 |
| | 11/13/2017 | 3 |
| | 11/15/2017 | 3 |
| | 11/16/2017 | 3 |
| | 11/20/2017 | 3 |
| | 11/22/2017 | 3 |
| | 11/23/2017 | 3 |
| | 12/4/2017 | 3 |
| | 12/6/2017 | 3 |
| | 12/7/2017 | 3 |
| | 12/11/2017 | 3 |
| | 12/13/2017 | 2 |
| | 12/14/2017 | 3 |
| | 12/18/2017 | 3 |
| | 12/20/2017 | 1 |
| | 12/21/2017 | 3 |
| | 12/27/2017 | 1 |
| | 12/28/2017 | 2.5 |
| | 1/3/2018 | 1.5 |
| | 1/4/2018 | 3 |
| | 1/8/2018 | 3 |
| | 1/11/2018 | 3 |
| | 1/15/2018 | 3 |
| | 1/17/2018 | 1.5 |
| | 1/18/2018 | 3 |
| | 1/22/2018 | 3 |
| | 1/25/2018 | 3 |
| | 1/29/2018 | 3 |
| | 1/22/2018 | 3 |
| | 1/24/2018 | 1.5 |
| | 1/25/2018 | 3 |
| | 1/29/2018 | 3 |
| | 2/1/2018 | 3 |
| | 2/7/2013 | 3 |
| | 2/12/2018 | 3 |
| | 2/14/2018 | 1.5 |
| | 2/15/2018 | 3 |
| | 2/19/2018 | 3 |
| | 2/22/2018 | 3 |
| | 2/26/2028 | 3 |

Total **111.5**

| Matrix Aftercare Group | | |
|------------------------|-----------|-----|
| | 3/7/2018 | 1.5 |
| | 3/14/2018 | 1.5 |
| | 3/21/2018 | 1.5 |
| | 3/28/2018 | 1.5 |
| | 4/4/2018 | 1.5 |
| | 4/11/2018 | 1.5 |
| | 4/18/2018 | 1.5 |
| | 4/24/2018 | 1.5 |

Total **12**

Individual Therapy Sessions, Janice Stimson, PhD

| | | |
|--|------------|------|
| | 5/9/2018 | 1 |
| | 5/23/2018 | 1 |
| | 6/6/2018 | 1.5 |
| | 6/20/2018 | 1.5 |
| | 6/29/2018 | 1 |
| | 7/3/2018 | 1.25 |
| | 7/18/2018 | 1.5 |
| | 8/1/2018 | 1 |
| | 8/15/2018 | 1.25 |
| | 8/22/2018 | 1.5 |
| | 8/29/2018 | 1 |
| | 9/5/2018 | 1.25 |
| | 9/12/2018 | 1.25 |
| | 9/26/2018 | 1.5 |
| | 10/3/2018 | 1.5 |
| | 10/10/2018 | 1.25 |
| | 10/17/2018 | 1 |
| | 10/24/2018 | 1.5 |
| | 11/7/2018 | 2 |
| | 12/5/2018 | 2 |
| | 12/19/2018 | 2 |
| | 12/26/2018 | 1.5 |
| | 1/6/2019 | 1.25 |
| | 1/30/2019 | 1.5 |
| | 2/13/2019 | 1.5 |
| | 3/6/2019 | 1 |
| | 3/27/2019 | 1.5 |
| | 5/16/2019 | 1.5 |
| | 5/22/2019 | 1.25 |
| | 6/19/2019 | 1.5 |
| | 7/3/2019 | 1.5 |
| | 7/17/2019 | 1.25 |
| | 8/8/2019 | 1.5 |
| | 8/22/2019 | 1.25 |
| | 8/29/2019 | 1.5 |
| | 9/19/2019 | 1.5 |
| | 9/25/2019 | 1.25 |
| | 10/3/2019 | 1 |
| | 10/10/2019 | 1.5 |
| | 10/17/2019 | 1.5 |
| | 10/24/2019 | 1 |
| | 11/21/2019 | 1.25 |
| | 12/5/2019 | 1.5 |
| | 12/19/2019 | 1.5 |
| | 1/2/2020 | 1.25 |
| | 1/9/2020 | 1.5 |

Total

63

Group Ongoing Recovery Sessions, Janice Stimson, PhD

| | | |
|--|------------|-----|
| | 8/1/2018 | 1.5 |
| | 8/15/2018 | 1.5 |
| | 8/22/2018 | 1.5 |
| | 9/5/2018 | 1.5 |
| | 9/12/2018 | 1.5 |
| | 9/26/2018 | 1.5 |
| | 10/3/2018 | 1.5 |
| | 10/10/2018 | 1.5 |
| | 10/17/2018 | 1.5 |
| | 10/24/2018 | 1.5 |
| | 11/7/2018 | 1.5 |
| | 11/28/2018 | 1.5 |
| | 12/5/2018 | 1.5 |
| | 12/19/2018 | 1.5 |
| | 12/26/2018 | 1.5 |
| | 1/16/2019 | 1.5 |
| | 1/23/2019 | 1.5 |
| | 2/13/2019 | 1.5 |
| | 3/6/2019 | 1.5 |
| | 3/27/2019 | 1.5 |
| | 5/22/2019 | 1.5 |
| | 6/5/2019 | 1.5 |
| | 6/12/2019 | 1.5 |
| | 6/19/2019 | 1.5 |
| | 7/3/2019 | 1.5 |
| | 7/17/2019 | 1.5 |
| | 8/14/2019 | 1.5 |
| | 8/21/2019 | 1.5 |
| | 8/28/2019 | 1.5 |
| | 9/11/2019 | 1.5 |
| | 9/25/2019 | 1.5 |

Total 46.5

Complete total 466

Veterinary Continuing Education

| Course | Number of Hours | Date of Completion |
|--|-----------------|--------------------|
| SVME Online CE Course | | |
| Veterinary Medical Ethics and Bioethics | 21 | 8/29/2018 |
| Veterinary Patient Medical Record Keeping Online | | |
| www.VeterinaryRecordKeeping.com | 5 | 9/4/2018 |

VIN

| | | |
|-------------------------------------|----|-----------|
| PRAC116-2018 | | |
| Veterinary Ethics (Non-Interactive) | 16 | 8/15/2019 |

Veterinary Patient Medical Record Keeping Online

| | | |
|--|---|-----------|
| www.VeterinaryRecordKeeping.com | 5 | 8/30/2019 |
|--|---|-----------|

AAFP Annual Symposium

| | | |
|--|---|------------|
| Hypertension in Cats | 1 | 10/31/2019 |
| Emotions and Feline Health | 1 | 10/31/2019 |
| Diagnosis and Management of Constipation | 1 | 10/31/2019 |
| Localizing Feline Dyspnea | 1 | 10/31/2019 |
| Update on IMHA | 1 | 10/31/2019 |
| Practical Approach to Hypertension | 1 | 10/31/2019 |
| Acute Pancreatitis | 1 | 10/31/2019 |

Total 7

| | | |
|---|---|-----------|
| Comorbidities-the New Norm | 1 | 11/1/2019 |
| Comorbidities in Retrovirus Infected Cats | 1 | 11/1/2019 |
| GI Pathogens | 1 | 11/1/2019 |
| Prevention of Chronic URI | 1 | 11/1/2019 |
| Chronic Enteropathy/Triaditis | 1 | 11/1/2019 |
| Hepatic Disease/Triaditis | 1 | 11/1/2019 |
| Exocrine Pancreatic Disorders | 1 | 11/1/2019 |
| Cardiomyopathy/Thromboembolic Disease | 1 | 11/2/2019 |
| Cardio-Renal Syndrome | 1 | 11/2/2019 |
| Hyperthyroidism and CKD | 1 | 11/2/2019 |
| CKD/Chronic Enteropathy | 1 | 11/2/2019 |
| Controlled Substances-Compliance | 1 | 11/2/2019 |
| Feeding Senior Cats | 1 | 11/2/2019 |
| Use of NSAIDS | 1 | 11/3/2019 |
| Antimicrobial Use in Comorbidities | 1 | 11/3/2019 |
| Anesthesia-HCM | 1 | 11/3/2019 |
| Skin Disease, Corticosteroids Contraindicated | 1 | 11/3/2019 |
| Skin Manifestations-Systemic Disease | 1 | 11/3/2019 |
| | 1 | 11/3/2019 |

Total 19

Total Sum 80

SVME CERTIFICATE OF COMPLETION

Awarded To: **Elyse Kent, DVM**

State(s) of Licensure: **California**

For Completion: **Modules 1, 2, 3, 4, 5, 6, and 7**

Program Title: **Society for Veterinary Medical Ethics Online CE Course**

Location (City, State): **College of Veterinary Medicine, Univ. of Minn., St. Paul, Minnesota**

Date: **August 29, 2018**

CE hours per Module **2-3 hours of Online CE & related reading presented in 7 Modules**

Subject Matter: **Veterinary Medical Ethics and Bioethics honoring the human-animal bond**

Category(ies): **Ethics and Professional Development**

Method(s) of Delivery: **Online CE Course with self study and self evaluation based upon honor system**

Presented By: **The Society for Veterinary Medical Ethics (SVME) Continuing Education Committee: Chair, Dr. Alice Villalobos following the late Dr. John McCarthy; contributors: Drs. Jose Peralta, Alice Villalobos, Dennis Lawler, Lee Shapiro, Peggy Danneman and Patricia Olson.**

Editorial Committee: **Drs. Diane Levitan, Bernard Rollin, Wendy Koch, Dennis Lawler, Lee Shapiro, Marthina Greer, Barbara Horney, Barry Kipperman and Michael J. White**

PROVIDER ADDRESS: www.SVME.org

PROVIDER NAME: **Society for Veterinary Medical Ethics**

RACE PROVIDER #: **786**

Authorized By: **Alice Villalobos, DVM, FNAP, President Emeritus of SVME**

Signature: *Alice Villalobos, DVM, FNAP*

This program 786-32558 is approved by the AAVSB RACE to offer a total of 17.00 CE Credits (17.00 max) being available to any one veterinarian: and/or 17.00 Veterinary Technician CE Credits (17.00 max). This RACE approval is for the subject matter categories of:

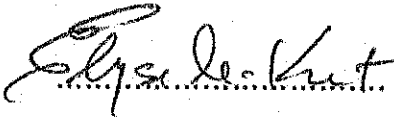
Category Two: Non-Scientific-Clinical using the delivery method of Non-Interactive-Distance. This approval is valid in jurisdictions which recognize AAVSB RACE; however, participants are responsible for ascertaining each board's CE requirements. RACE does not "accredit" or "endorse" or "certify" any program or person, nor does RACE approval validate the content of the program.

**VETERINARY PATIENT MEDICAL RECORD
VETERINARY RECORD KEEPING
PRACTICE MANAGEMENT – NON-SCIENTIFIC - RACE PROGRAM # 252-32318**

**CERTIFICATE OF ATTENDANCE
Certificate Number: CA-612-VRK C1 SEPTEMBER 2018
AWARDED TO:**

Participant Name: Dr. Elyse Kent

State(s) of Licensure and #(s): # CA 7368

Participant Signature: 

For successful completion of the course:

**VETERINARY PATIENT MEDICAL RECORD –VETERINARY RECORD KEEPING
RACE PROGRAM # 252-32318
On-Line at
www.VeterinaryRecordKeeping.com**

Practice Management
Subject category(s)

09/04/2018
(Date)

ON-LINE
(Method of delivery)

Presented by:

**Dr. Madan L. Kharé
Veterinarian
31 South 2nd Avenue
Highland Park, NJ 08904**

AAVSB RACE Provider # 252

Authorized by:


(signature)

"Course meets the requirements for **FIVE (5) – COURSE 1** hours of CE

This program 252-32318 is approved by the AAVSB RACE to offer a total of 10.00 CE Credits (10.00 max) being available to any one veterinarian; and/or 10.00 Veterinary Technician CE Credits (10.00 max). This RACE approval is for the subject matter categories of:
Category Three: Non-Scientific-Practice Management/Professional Development using the delivery method of Interactive-Distance. This approval is valid in jurisdictions which recognize AAVSB RACE; however, participants are responsible for ascertaining each board's CE requirements. RACE does not "accredit" or "endorse" or "certify" any program or person, nor does RACE approval validate the content of the program."





CERTIFICATE OF ATTENDANCE

Dr. Elyse Kent

has successfully completed

PRAC116-2018 Veterinary Ethics (Non-Interactive)

RACE Course # 22-34931

November 01 2018 - December 31 2019

Instructed by:

Carol Morgan DVM, PhD (Posthumous) and Raymond Anthony PhD

Presented by: VETERINARY INFORMATION NETWORK

RACE Provider #22

777 West Covell Blvd. • Davis, CA 95616 • 800.700.4636 • CEonVIN@vin.com

State of Licensure: CA(7368)

Additional licensure _____

Member signature *Elyse M. Kent, DVM*

This program has been approved for 16 hours of non-interactive continuing education credit in a non-medical subject manner in jurisdictions that recognize RACE approval.

Authorized by:

Paul David Pion, DVM, DACVIM (Cardiology)
President/CEO VIN, Inc.

**VETERINARY PATIENT MEDICAL RECORD
VETERINARY RECORD KEEPING**
PRACTICE MANAGEMENT – NON-SCIENTIFIC - RACE PROGRAM # 252-32318

CERTIFICATE OF ATTENDANCE
Certificate Number: CA-667-VRK C2 AUGUST 2019
AWARDED TO:

Participant Name: **Dr. Elyse Kent**

State(s) of Licensure and #(s): **# CA 7368**

Participant Signature: *Elyse Kent, DVM*

For successful completion of the course:

VETERINARY PATIENT MEDICAL RECORD –VETERINARY RECORD KEEPING

RACE PROGRAM # 252-32318

On-Line at

www.VeterinaryRecordKeeping.com

Practice Management
Subject category(s)

08/30/2019
(Date)

ON-LINE
(Method of delivery)

Presented by:

Dr. Madan L. Kharé
Veterinarian
31 South 2nd Avenue
Highland Park, NJ 08904

AAVSB RACE Provider # 252

Authorized by:

M. Kharé
(signature)

"Course meets the requirements for **FIVE (5) – (COURSE 2)** hours of CE

*This program 252-32318 is approved by the AAVSB RACE to offer a total of 10.00 CE Credits (10.00 max) being available to any one veterinarian; and/or 10.00 Veterinary Technician CE Credits (10.00 max). This RACE approval is for the subject matter categories of:
Category Three: Non-Scientific-Practice Management/Professional Development using the delivery method of Interactive-Distance. This approval is valid in jurisdictions which recognize AAVSB RACE; however, participants are responsible for ascertaining each board's CE requirements. RACE does not "accredit" or "endorse" or "certify" any program or person, nor does RACE approval validate the content of the program."*

RACE
REGISTRY OF APPROVED
CONTINUING EDUCATION
AMERICAN ASSOCIATION OF
VETERINARY STATE BOARDS



American Association of
FELINE PRACTITIONERS®

American Association of Feline Practitioners
390 Amwell Road, Suite 402
Hillsborough, NJ 08844
Phone (800) 874-0498, Fax (908)292-1188
info@catvets.com

RECORD OF PARTICIPATION IN CONTINUING EDUCATION PROGRAM

Retain This Sheet For Your Records

Attendee Name: DR. ELYSE KEAT

RACE Approval for American Association of Feline Practitioners 2019 Annual Conference

This program 249-37720 is approved by the AAVSB RACE to offer a total of 72.00 CE Credits (31.50 max) being available to any one veterinarian: and/or 72.00 Veterinary Technician CE Credits (31.50 max). This RACE approval is for the subject matter categories of: Category: Medical Program using the delivery method of Seminar/Lecture. This approval is valid in jurisdictions which recognize AAVSB RACE; however, participants are responsible for ascertaining each board's CE requirements. RACE does not "accredit" or "endorse" or "certify" any program or person, nor does RACE approval validate the content of the program.

Additional Approval:



I hereby certify that the above named individual is registered as a participant at the AAFP 2019 Annual Conference, themed Complex Disease Management: Exploring Feline Comorbidities, held October 31 – November 3, 2019 in San Francisco, CA.

Signed: Heather O'Steen
Heather O'Steen, AAFP Chief Executive Officer (CEO)

At the AAFP 2019 Annual Conference, I attended the following programs:

| ATTENDED | CE | TITLE OF SEMINAR SESSION |
|----------|------------|---|
| | | Total CE for Thursday, October 31, 2019 *Separate Registration Required |
| | 3 | Feline-Friendly Handling Workshop, Dr. Ilona Rodan *Separate Registration Required |
| 1 | 1 | Keeping Calm Under Pressure: Hypertension & Comorbidities in Cats, Dr. Andrew Sparkes |
| 1 | 1 | Mind & Body: How Emotions Can Impact Feline Health, Dr. Andrew Sparkes |
| 1 | 1 | Between a Rock & a Hard Place: Diagnosis & Management of Constipation, Drs. Jolle Kirpensteijn & Susan Little |
| 1 | 1 | Localizing Feline Dyspnea, Dr. Christopher Byers |
| 1 | 1 | Update on IMHA, Dr. Christopher Byers |
| 1 | 1 | Practical Approach to Feline Hypotension, Dr. Christopher Byers |
| 1 | 1 | Acute Pancreatitis: What Do We Really Know?, Dr. Christopher Byers |
| | 7.5 | Total CE for Friday, November 1, 2019 |
| 1 | .5 | Why Are Comorbidities the "New" Norm for Cats?, Dr. Margie Scherk |
| | .5 | <i>Practice Management: Work Life Balance & Making Time for Yourself, Ms. Melissa Tompkins</i> |
| 1 | 1 | Comorbidities in Retrovirus Infected Cats, Dr. Michael Lappin |
| | 1 | <i>Practice Management: What Do You Do When a Client Says No?, Ms. Melissa Tompkins</i> |
| | 1 | Managing Feline Endocrine Diseases: Easier Said Than Done, Dr. Audra Fenimore |
| 1 | 1 | What Makes a GI Pathogen, Pathogenic?, Dr. Michael Lappin |
| | 1 | <i>Practice Management: Impact of Environmental Design & Choices on the Cat, Dr. Ragen McGowan</i> |
| 1 | 1 | Lunch & Learn #1: Prevention of Chronic Viral Upper Respiratory Infections in Cats, Dr. Michael Lappin |
| | 1 | Lunch & Learn #2: It's a New World: Update on Feline Retrovirus Testing, Dr. Susan Little |
| | 1 | Lunch & Learn #3: Maintain Muscle Mass While Feeding Feline Renal Therapeutic Diets, Dr. Amy Farcas |
| 1 | 1 | Chronic Enteropathy in Cats With Triaditis: Optimization of Diagnosis & Management, Dr. Stanley Marks |
| | 1 | The Role of Coinfections in Select Feline Clinical Disease Syndromes, Dr. Michael Lappin |
| | 1 | <i>Practice Management: Feline Professional Liability Risk Management, Dr. Linda Ellis</i> |
| 1 | 1 | New Insights in Hepatic Disease Associated With Triaditis, Dr. Stanley Marks |
| | 1 | The Cushingoid Diabetic: Recognition, Diagnosis, & Management, Dr. Audrey Cook |
| | 1 | <i>Practice Management: Does Cat Friendly Practice® Impact Your Team's Risk of Injury?, Mr. Scott Simpson</i> |
| 1 | 1 | Lessons Learned: Diagnosis & Management of Exocrine Pancreatic Disorders in Cats With Triaditis, Dr. Stanley Marks |
| | 1 | Managing IBD in the Diabetic Cat - Part 1: Challenges, Drs. Audrey Cook & Amy Farcas |
| | 1 | <i>Practice Management: Incorporating Feline-Friendly Techniques into Practice Management Decisions, Ms. Melissa Tompkins</i> |
| | 1 | How Chronic Disease Affects Pain Perception & Management, Dr. Elizabeth Colleran |
| | 1 | Managing IBD in the Diabetic Cat - Part 2: Strategies, Drs. Audrey Cook & Amy Farcas |
| | 1 | <i>Practice Management: Team Building: Create Stronger Practice Teams, Ms. Melissa Tompkins</i> |

ATTENDED ⁶ CE
 (6) X

TITLE OF SEMINAR SESSION

Total CE for Saturday, November 2, 2019

| | |
|---|---|
| 1 | Setting the Stage: Managing CKD, Dr. Jessica Quimby |
| 1 | Cardiomyopathy & Thromboembolic Disease, Drs. Ronald Li & Joshua Stern |
| 1 | Technician/Nurse: Veterinary Technician's Role in the Feline Healthy Wellness Visit, Ms. Rachel Poulin |
| 1 | Cardio-Renal Syndrome, Drs. Jessica Quimby & Joshua Stern |
| 1 | Diagnosis of Comorbidities on a Budget: Practical Diagnostic Options Can Help, Dr. Elizabeth Colleran |
| 1 | Technician/Nurse: Diabetes & the Role of the Technician in Disease Management, Ms. Rachel Poulin |
| 1 | Hyperthyroidism & CKD: Now What?, Dr. Jessica Quimby |
| 1 | Heart Disease & Respiratory Disease in the Cat, Drs. Ronald Li & Joshua Stern |
| 1 | Technician/Nurse: Fluid Therapy, Ms. Ann Wortinger |
| 1 | CKD & Chronic Enteropathy: Clinical Implications of Gut-Renal Syndrome, Dr. Jessica Quimby ^{Lecture} |
| 1 | Hypertrophic Cardiomyopathy & Co-Managing Hypertension or Hyperthyroidism, Dr. Joshua Stern |
| 1 | Nutritional Management of Patients With Vomiting & Diarrhea, Ms. Ann Wortinger |
| 1 | Lunch & Learn #1: Weight Loss in CKD: Is it the Protein or the Calories?, Dr. Angela Rollins |
| 1 | Lunch & Learn #2: It's so HARD! Feline Heartworm Case Management & Diagnostic Updates, Dr. Byron Blagburn |
| 1 | Lunch & Learn #3: Controlled Substances 101: How & Why You Must Comply!, Ms. Jan Woods |
| 1 | Feeding Senior Cats for Life-Managing Common Concurrent Needs, Dr. Julie Churchill |
| 1 | Layers of Complexity: The Feline Imperative for Integrating Pharma & Non-Pharma, Dr. Bonnie Wright |
| 1 | Technician/Nurse: Refeeding Syndrome: Does it Really Exist?, Ms. Ann Wortinger |
| 1 | Feeding Outside the Box: Nutritional Triage to Manage Comorbidities, Dr. Julie Churchill |
| 1 | Managing the Peri-Operative Cat With Renal Disease from Start to Finish, Dr. Bonnie Wright |
| 1 | Technician/Nurse: Counseling Clients in Crisis, Ms. Ann Wortinger |

Total CE for Sunday, November 3, 2019

| | |
|---|---|
| 1 | Refining Diagnostic Skills in the Aging Cat: The Sense of Touch, Dr. Bonnie Wright |
| 1 | Comorbidities: Changing the Way We Use NSAIDs, Dr. Dawn Boothe |
| 1 | Technician/Nurse: Hepatic Lipidosis, Ms. Ann Wortinger |
| 1 | Tools for Treating OA Pain in Cats Including Concurrent Renal or Cardiac Diseases, Dr. Bonnie Wright |
| 1 | Antimicrobial Risk: Changing Your Approach to Therapy When Comorbidities Exist, Dr. Dawn Boothe |
| 1 | Technician/Nurse: Feeding Tube Management & Complications, Ms. Ann Wortinger |
| 1 | Feline Anesthesia: HCM & Other Diseases, Dr. Bonnie Wright |
| 1 | Managing Gastrointestinal Lymphoma in the Diabetic Cat, Dr. Barbara Kitchell |
| 1 | Technician/Nurse: Nutritional Management of the Feline CKD Patient, Mr. Ed Carlson |
| 1 | Managing Skin Disease in Cats When Corticosteroids Are Contraindicated, Dr. Catherine Outerbridge |
| 1 | Managing Concurrent Lymphoma & Heart Disease, Dr. Barbara Kitchell |
| 1 | Technician/Nurse: Nutrition for the Hospitalized Veterinary Patient, Mr. Ed Carlson |
| 1 | Lunch & Learn #1: Feline Hypertension: New Developments on a Pressing Topic, Dr. Bianca Lourenço |
| 1 | Lunch & Learn #2: Artificial Intelligence Takes the Surprise Out of Chronic Kidney Disease, Dr. Dennis Chew |
| 1 | Skin Manifestations of Underlying Systemic Disease, Dr. Catherine Outerbridge |
| 1 | Managing Renal Lymphoma in the Azotemic Cat, Dr. Barbara Kitchell |
| 1 | Technician/Nurse: Feline Pain Management: Using Physical Rehabilitation Treatments & Modalities, Ms. Kristen Hagler |
| 1 | Optimal Feline Hydration, Dr. Deborah Greco |
| 1 | High Grade GI Tumor With Intestinal Perforation, Spectacular Dysbiosis, & Small Cell Lymphoma, Dr. Barbara Kitchell |
| 1 | Technician/Nurse: Lights, Camera, Action: Using & Understanding Therapeutic Laser for Pain Management, Ms. Kristen Hagler |

25.5 31.5

Total Conference CE (General Conference is 18.5 Hours; Lunch & Learn's are 3 Hours, Workshop is 3 Hours, and Pre-Conference Day is 7 Hours - Separate Registration Required)

Name: DR. ELYSE KENT License Number: 7368

Address: 4139 VIA MARINA 403 Marina Del Rey, Ca. 90292 State of Licensure: CA.

I attest that I attended the above number of CE sessions, totaling _____ hours at the American Association of Feline Practitioners 2019 Annual Conference held October 31 - November 3, 2019 in San Francisco, CA.

Signature: Elyse Kent, DVM Date: 11-30-19



CERTIFICATE OF ATTENDANCE

ELYSE KENT, DVM

has attended a continuing education symposium

Participant Signature & Date:

Elyse Kent

Participant State(s) of Licensure:

CALIFORNIA

Participant License #(s):

7368

of CE Hours:

(2 Hours)

PROGRAM TITLE: Feline Infectious Respiratory Disease: What Every Veterinarian Should Know
(AAVSB RACE Approval #192-33691)

DATE: November 1, 2019

LOCATION: Hilton San Francisco Union Square, San Francisco, CA

SPEAKER(S): Annette Litster, BVSc, PhD, FANZCVSc, MMedSci

PRESENTED BY: Zoetis, Parsippany, NJ
AAVSB RACE Provider #192

SUBJECT CATEGORY: Category One: Scientific

METHOD OF DELIVERY: Lecture

Authorized By:

[Signature]
Zoetis Representative

This program 192-33691 is approved by the AAVSB RACE to offer a total of 1.00 CE Credits (1.00 max) being available to any one veterinarian: and/or 1.00 Veterinary Technician CE Credits (1.00 max). This RACE approval is for the subject matter categories of: Category One: Scientific using the delivery method of Seminar/Lecture and/or Interactive-Distance. This approval is valid in jurisdictions which recognize AAVSB RACE; however, participants are responsible for ascertaining each board's CE requirements. RACE does not "accredit" or "endorse" or "certify" any program or person, nor does RACE approval validate the content of the program.

EXHIBIT 5

BEFORE THE
VETERINARY MEDICAL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended
Accusation Against:

ELYSE MARIE KENT,
Veterinarian License No. VET 7368,

Respondent.

Case No. AV-2015-1

OAH No. 2015111053

DECISION AFTER NON-ADOPTION

This matter was heard by Eileen Cohn, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, on April 3, 4, and 5, 2017, in Los Angeles, California.

Complainant Annemarie Del Mugnaio (Complainant), in her official capacity as Executive Officer, California Veterinary Medical Board (Board), Department of Consumer Affairs, State of California, was represented by Mathew A. King, Deputy Attorney General, Department of Justice, State of California.

Respondent Elyse Marie Kent (Respondent) was present and represented by Bonnie L. Lutz, Attorney at Law.

Oral and documentary evidence, including evidence by written stipulations, was received at the hearing, and argument was heard. The record was closed, and the matter was submitted for decision on April 5, 2017.

On May 8, 2017, the Board received the Proposed Decision of the ALJ. After due consideration thereof, the Board declined to adopt said Proposed Decision.

On June 13, 2017, Respondent submitted to the Board an application to correct a mistake or clerical error in the Proposed Decision.

On June 21, 2017, the Board issued an Order of Non-Adoption to decide the case upon the record, including the transcript of the hearing and upon such written argument. A notice of deadline for submission of written argument was issued on June 29, 2017, setting the date for submission by July 14, 2017.

On July 14, 2017, the Board received Complainant's Argument After Non-Adoption, as well as Respondent Elyse Kent, DVM's Written Argument Following Order of Nonadoption of Proposed Decision, Index of Exhibits in Support of Respondent Elyse Kent, DVM's Written Argument Following Order of Nonadoption of Proposed Decision, and Proof of Service.

Respondent's Exhibit 12 was not considered by the Board as it was not part of the record or admitted as evidence at the hearing.

The Board, pursuant to Section 11517 of the Government Code, hereby makes the following decision:

FACTUAL FINDINGS

Jurisdiction

1. All jurisdictional requirements have been met. On August 20, 2015, Complainant made the allegations set forth in the Accusation against Respondent. The Accusation was promptly served upon Respondent. Respondent timely filed a Notice of Defense requesting a hearing. On October 3, 2016, Complainant served Respondent with a First Amended Accusation, to which Respondent timely filed a Notice of Defense requesting a hearing.

License History

2. On August 8, 1980, the Board issued Veterinarian License Number VET 7368 to Respondent. The license was in full force and effect at all times relevant to the charges brought herein, remains current, and will expire on November 30, 2018, unless renewed.

3. Respondent has been associated with the following practices:

a. From October 11, 1985, through September 1, 2000, Respondent was the owner of Westside Hospital for Cats, premises license HSP 3912.

b. From September 1, 2000, through May 16, 2014, Respondent was managing licensee of Westside Hospital for Cats, Inc., premises license HSP 5518.

c. In December 2013 through August 29, 2015, Respondent joined T.H.E. Westside Cat Practice, premises license HSP 6490.

d. Beginning on October 28, 2015, Respondent has been the managing licensee of Elite Cat Care, premises license HSP 7958, which is current and will expire on May 31, 2018, unless renewed.

Criminal Convictions and Drug Abuse

4. In 2008, on a plea of nolo contendere to one misdemeanor count for reckless driving involving alcohol, in violation of Vehicle Code section 23103 (Exhibit 5¹), for which she received a suspended sentence, Respondent was placed on summary probation for 36 months, and was required to pay fines and fees and to attend a first-time offender drug education and counseling program. Respondent completed her probation.

¹ Unless otherwise noted, all references to Exhibits refer to those Exhibits admitted at the hearing.

5. On February 15, 2013, on a plea of nolo contendere to one misdemeanor count for driving under the influence with a blood alcohol content of 0.08 percent or higher, in violation of Vehicle Code section 23152, subdivision (b) (Exhibit 7), the court imposed a suspended sentence, summary probation for a period of 60 months, 10 days in jail, with six days credit for time-served and work time, fines, fees and restitution in the total amount of \$2,198. Respondent was ordered to complete an SB 38, 18-month alcohol and drug education and counseling program for repeat offenders, and abide by the standard conditions of probation, including obeying all laws and installing a guardian interlock system on her car, which required her to blow into a device to measure her blood alcohol before she could drive.

6. The circumstances of the conviction are that on January 14, 2013, Respondent was stopped and arrested by the police after a traffic accident, and was found to have a blood alcohol content of .16 percent. (Exhibit 8.)

7. Respondent successfully completed the SB 38 program, attended regular meetings of Alcoholics Anonymous (AA), satisfied her fines and fees, and was released from her use of the guardian interlock system after 18 months.

8. Respondent remains on court probation until February 2018.

9. On July 9, 2013, Respondent notified the Board by letter that she had been arrested on January 16, 2013, and charged with a misdemeanor for driving under the influence after causing a minor rear end collision. (Exhibit A.)

10. Respondent stipulated to allegations and causes concerning the two convictions for driving under the influence of alcohol. (Exhibit 16.)

11. On August 23, 2013, the Board received a complaint that Respondent was abusing drugs and alcohol. (Exhibit 9.) Respondent stipulated that she had used cocaine on several occasions outside of her veterinarian practice, and on the weekends, when she was in the company of one individual, who she described generally as a bad influence. (Exhibit 16.) Respondent insists that her history of cocaine use was connected to this one person with whom she had an eight-year romantic relationship. Respondent has remained steadfast in her commitment to sobriety from drugs by severing all ties with this individual. She admitted to last using cocaine in June 24, 2016, the last time she was with this individual.

12. At hearing, Respondent described cocaine as her "drug of choice." She started using cocaine in 2009. Drug testing between 2014 and 2016 established that she had an ongoing struggle with cocaine use. Respondent stipulated to positive drug laboratory test results for several events of cocaine use between 2014 and 2016.² (Exhibit X, pp. MATRIX005, 028, 029, 033, 039, 040.)

13. Respondent maintained she used cocaine intermittently and never during the work week. She denied stating to investigators that she had used cocaine three times during a one-week period. Cocaine metabolites remain in the blood stream between four and seven days after

² With respect to the test results dated August 6, 2016, which show a positive detection of ethanol and amphetamine, Dr. Janice Stimson provided testimony and an Affidavit, executed March 22, 2017, that those results do not belong to Dr. Kent but were the result of mislabeling of another person's urinalysis sample. (Exhibit U.)

usage. On May 21, 2014, Respondent voluntarily submitted to testing for the Board's investigators, who arrived unannounced at T.H.E. Westside Cat Practice; it was her day off from work and she came in to speak with them. Respondent stipulated that her urinalysis sample was positive for cocaine metabolites at a concentration of 300 nanograms per milliliter. (Exhibits 1, 11, 16.)

Stipulation

14. At the hearing, the parties submitted a Joint Stipulation (Exhibit 16) and stipulated to the following facts in the First Amended Accusation (Exhibit 1), as modified by the parties and incorporated into these Factual Findings as though fully set forth herein:

a. The First Amended Accusation, paragraphs 14-17, inclusive of findings, related to alcohol abuse-related crimes resulting in misdemeanor convictions in 2008 and 2013. (Exhibits 1, 16.)

b. The First Amended Accusation, paragraph 18, inclusive of findings, regarding a complaint received by the Board on August 23, 2013, the Board's unannounced site inspection on May 21, 2014, Respondent's positive urine screen for cocaine metabolites, her admission of using cocaine, and the findings in new paragraph 19, of the following:

Between approximately June 19, 2014, and June 24, 2016, Respondent used cocaine as evidenced by urine tests that returned positive for cocaine metabolites, which tests Respondent voluntarily submitted to on June 19, 2014; June 30, 2014; March 11, 2015; March 25, 2015; April 8, 2016; and June 24, 2016. (Exhibits 1, 16.)

15. The parties stipulated to amending the First Amended Accusation, paragraph 26, that Respondent failed to perform a physical exam or else failed to document a physical exam before administering general anesthesia to Respondent's patient, Fuego.

16. The parties stipulated to amending the First Cause for Discipline (violation of Board regulations) to add new paragraph 32, as follows:

California Code of Regulations, title 16 section 2032.4, subdivision (b)(1), requires veterinarians to physically examine an animal patient within twelve hours prior to the administration of a general anesthetic, and to document the results of the physical examination in the animal patient's medical records. Respondent violated this regulation by failing to [physically] examine Fuego or else by failing to document the results of a physical examination of Fuego before Respondent anesthetized Fuego on or about February 20, 2015.

17. The parties stipulated to, and Respondent admits, the facts set forth in the Second Cause for Discipline (conviction of a substantially related crime) that Respondent was convicted of a crime that is substantially related to the qualifications, functions and duties of a veterinarian, by reason of paragraphs 13-17. (Exhibits 1, 16.)

18. The parties stipulated to, and Respondent admits, the facts set forth in the Third Cause for Discipline (illegal use of a controlled substance) that Respondent illegally used and self-administered a controlled substance, to wit cocaine, by reason of paragraphs 13-19. (Exhibits 1, 16.)

19. The parties stipulated to, and Respondent admits, the facts set forth in the Fourth Cause for Discipline (dangerous use of drugs and alcohol) that Respondent used dangerous drugs and alcoholic beverages to an extent or in a manner as to be dangerous and injurious to herself and others, by reason of paragraphs 13-19. (Exhibits 1, 16.)

20. The parties stipulated to, and Respondent admits, the facts set forth in the Fifth Cause for Discipline (multiple convictions for alcohol) that Respondent was convicted of more than one misdemeanor involving the use, consumption, or self-administration of alcohol, by reason of paragraphs 13-17. (Exhibits 1, 16.)

21. The parties stipulated to, and Respondent admits, the facts set forth in the Sixth Cause for Discipline (violation of state drug laws) that Respondent violated state laws regulating drugs and controlled substances, which make it a crime for a person to possess cocaine, prohibit the possession of a controlled substance except upon a valid prescription, and prohibit the use of certain controlled substances, including cocaine, except when administered by or under the direction of a person licensed by the state to dispense, prescribe or administer controlled substances, by reason of paragraphs 13-19. (Exhibits 1, 16.)

22. Respondent did not stipulate to or admit the facts set forth in the First Cause for Discipline (violation of Board regulations) or the Seventh Cause for Discipline (unprofessional conduct). (Exhibits 1, 16.)

Disputed Allegations and Causes re: Feline Patient Fuego

23. Respondent did not admit to the following allegations concerning her examination and handling of patient Fuego, a male domestic long-haired feline, born on May 2005, as set forth in the First Amended Accusation, as modified by the parties at hearing, paragraphs 20-26. (Exhibit 1.) The following allegations remain in dispute:

a. On or about May 29, 2014, Respondent performed a physical examination of Fuego but did not record her examination findings. (Exhibit 1, paragraph 21.)

b. On or about February 20, 2015, Respondent made errors and omissions in the treatment she provided to Fuego and how she documented it, as more particularly stated in paragraphs 23-26. (Exhibit 1, paragraph 22.)

c. Respondent failed to collect an adequate medical history. (Exhibit 1, paragraph 23.)

d. Respondent failed to record a diagnosis and a description of the tooth extraction procedure. (Exhibit 1, paragraph 24.)

e. Respondent failed to record a diagnosis or assessment of general oral status and a diagnosis for each tooth that required extraction. (Exhibit 1, paragraph 25.)

f. Respondent failed to perform a physical exam or else failed to document a physical exam before administering general anesthesia on Fuego. (Exhibit 1, paragraph 26.)

24. Respondent did not admit to the First Cause for Discipline (violation of Board Regulations) for her conduct with regard to Fuego, by reason of the disputed facts, alleged in paragraphs 20-26 of the First Amended Accusation (Exhibit 1), and as set forth in Factual Finding 23 above.

25. Respondent did not admit to the Seventh Cause for Discipline (unprofessional conduct) related to Fuego, by reason of the disputed facts, alleged in paragraphs 20-26 of the First Amended Accusation (Exhibit 1), and as set forth in Factual Finding 23 above.

Record-keeping and Treatment of Fuego

26. Fuego, a male long-haired domestic cat, was a patient of T.H.E. Cat Practice beginning on approximately April 15, 2010. In 2011, Fuego was examined for the purpose of following up with a urinary problem diagnosed by veterinarians at another clinic. The next examination of Fuego at this veterinary practice was on May 29, 2014.

27. In December 2013, Respondent merged her practice, Westside Hospital for Cats, with T.H.E. Cat Practice, and created a new practice called T.H.E. Westside Cat Practice, which continued to provide care for Fuego until March 2, 2015.

28. In 2015, the Board received a consumer complaint regarding Respondent's treatment of Fuego. (Exhibit 14.) The allegations at issue involve Respondent's record-keeping of a May 29, 2014 physical examination and record-keeping and physical examination performed on February 20, 2015.

29. Complainant relied upon Board consultant, expert witness, and experienced veterinarian Bonnie Markoff, DVM. Dr. Markoff graduated from the University of California, Davis School of Veterinary Medicine, and has been licensed to practice veterinary medicine in California since 1988. Dr. Markoff has not only catered to small animals as a clinic owner and manager, but is certified as a Diplomate of the American Board of Veterinarian Practitioners, for Canine and Feline Practice. Certification requires six years of high quality experience, the writing of several case studies, successful completion of a three-part exam, and re-examination every three years. Only 13 percent of veterinarian practitioners are accredited nationally for canine and feline practice. Dr. Markoff is affiliated with the American Animal Hospital Association, in addition to several other national and regional associations. She has interpreted the record-keeping of veterinarians in at least 50 cases.

30. Dr. Markoff's opinion was given great weight regarding record-keeping and examination protocols, based upon her qualifications, her experience and familiarity with feline examinations and veterinarian record-keeping practices, and her clear and direct responses to questions at hearing.

31. Dr. Markoff's opinion regarding examination protocols did not materially conflict with Respondent's testimony of her own practices. Dr. Markoff generally described a feline examination to include: checking the animal's body, including the nose, ears, mouth, lymph nodes, weight, its walk, palpating the abdominal area, checking the lungs, pulse rate and temperature. Any abnormality, such as tarter, or a lump, would be noted and described and scored appropriately according to veterinary medical standards.

32. Respondent used a computer software program, AVImark, for her examinations at T.H.E. Westside Cat Practice. The program required the user to check a pop-up box next to the section on examination to access a list of examined systems to check. For Fuego's visits on May 29, 2014, and February 2, 2015, the pop-up boxes were not checked. Respondent does not know how it happened that all the boxes were not checked confirming that she conducted a complete examination.

33. Dr. Markoff was not familiar with the computerized system in place at T.H.E. Westside Cat Practice where Fuego was examined, but by failing to check the pop-up box, Respondent failed to input that an examination had occurred, and what she did in the examinations on May 29, 2014 and February 20, 2015.

34. There are several components of veterinarian practice which are recorded by practice in the veterinarian's records and referred to by the acronym SOAP: subjective and objective observation, assessment, and plan. The subjected part of the record consists of the client's reports to the veterinarian or veterinarian office, usually the veterinary technician, at the time of arrival of pets for their appointments. The objective part of the exam consists of the examination and any laboratory tests, the assessment consists of the veterinarian's diagnosis, and the plan refers to the recommendations, such as diet, medication, and further treatment.

May 29, 2014 Record of Physical Examination

35. On May 29, 2014, Respondent examined Fuego for the first time and performed a wellness exam. Prior to her wellness examination, Respondent was not responsible for Fuego's care.

36. Dr. Markoff testified that in the medical record for the examination of Fuego performed on May 29, 2014 (Exhibit 12, p. AGO 011), the only documentation of findings that a physical examination was performed is an entry of a wellness examination; as far as the medical record states, nothing else was examined. Dr. Markoff testified that, aside from weight and temperature, the medical record does not reflect that Dr. Kent performed a physical examination of Fuego May 29, 2014.

37. Respondent's records for May 29, 2014, contain the following information:

a. The intake or subjective section provides for a wellness examination and a food Rx, and Fuego's age (nine years) weight (20.25 pounds) and temperature.

b. The objective section under Findings states "not examined systems: cardiovascular, respiratory, abdomen, urinary, integument, eyes, ears, nose, throat, oral musculoskeletal, neurologic, lymphatic, genital and thyroid."

c. The objective section also notes that a wellness exam was conducted, nail trim and services provided, and urinalysis/protein creatinine lab tests administered with the results.

d. The records also state a three-year vaccination was administered.

e. No diagnosis or plan was recorded, but the records refer to an RX for diet and a follow-up communication with the client, one day later, regarding a urinary diet or transition to a weight control diet and teeth cleaning. (Exhibit 12, p. AGO 011-12.) Respondent confirmed in her statement to the Board that consistent with her records, she advised the client about nutrition, weight control, and teeth cleaning. (Exhibits C and D.)

February 20, 2015 Physical Examination and Treatment

38. On or about February 20, 2015, Fuego presented to Respondent for teeth cleaning. Laboratory tests were performed and a urinary tract infection was noted. Respondent anaesthetized Fuego, cleaned his teeth, and extracted two teeth. (Exhibit 12, AGO 0014.)

Records of Medical History

39. Dr. Markoff testified that the only possible medical history documented in the February 20, 2015 record (Exhibit 12, p. AG 0014) are the words "No F/FD," which is an inadequate documentation of the patient's history prior to providing anesthesia to an older cat. Dr. Markoff also testified that the medical record itself states that an examination was not performed because the "Objective Section" lists all of the systems that were not examined (cardiovascular, respiratory, abdomen, urinary, integument, eyes, ears, nose, throat, oral, musculoskeletal, neurologic, lymphatic, genital, thyroid area). (Exhibit 12, p. AGO 0014.)

40. Respondent's records were also incomplete in that the subjective intake section reported only that the dental stage is to be determined and that Fuego had no fleas.

41. Respondent admitted that the subjective section or intake was incomplete, and should have more than whether the feline has fleas, which is important, but maintained that at intake for dentistry, after a wellness exam, the only information required in the subjective section is obtained from the client's observations and communication of observed abnormalities, such as bleeding in the mouth, or whether the feline fasted, as instructed. The remaining information is obtained through physical examination and blood work.

42. Respondent conceded she generally relied upon the veterinarian technician to input the information regarding the reason for the visit, and she would input handwritten information regarding her objective findings, assessment and plan, but the notes pile up and were not retained. Lab results were made part of the record and were obtained prior to the administration of anesthesia. At the time of her treatment of Fuego, Respondent was typically seeing between 35-50 felines a day for examination and treatment so she relied upon the technician to record the notes.

43. Respondent admitted she did not record the physical examination in the objective section for the February 20, 2015 exam.

Description of Tooth Extractions

44. Dr. Markoff testified that the medical record for the tooth extraction performed on Fuego on February 20, 2015 (Exhibit 12, p. AG 0014) is inadequate because it fails to provide an adequate description of the tooth extractions; the medical record only notes tooth extractions with two tooth numbers but does not describe how the teeth were extracted. Dr. Markoff explained that there are many ways to extract teeth, especially on cats, and the manner of extraction depends on what is found on a set of dental x-rays; the veterinarian may choose to extract the tooth and the roots, or extract the tooth and leave the roots in place. Dr. Markoff stated that it is important for a subsequent treating veterinarian to know the manner of tooth extraction because follow-up treatment in a non-healing situation differs depending upon whether the tooth roots were left in place and whether the tooth was drilled or split before extraction.

45. There is no evidence that Respondent failed to conduct an appropriate cleaning or extraction according to the standards required of veterinary practitioners; Respondent capably described her surgical techniques.

General Oral Status and Diagnosis for Tooth Extractions

46. Dr. Markoff explained that surgical removal of a tooth requires the veterinarian to evaluate the patient's general oral status and provide a diagnosis for each of the teeth requiring extraction. Dr. Markoff testified that she did not see any diagnosis in the record before the extractions.

47. Dr. Markoff acknowledged that Respondent adequately recorded which teeth were extracted, and the staging of the severity Fuego's oral status as Grade 3.

48. Dr. Markoff insisted more specificity as to each tooth is required because Grade 3 staging can mean different things in different practices, and records must be easily understood so that any veterinarian can understand Fuego's condition and history.

49. Respondent's records for February 20, 2015, did provide general information about Fuego's examination and extractions, and as such, supported Respondent's testimony that her custom and practice as a competent and trustworthy veterinarian was to thoroughly examine her feline patients.

50. The notes in the plan section include a chronological list of tasks that the technician assisted with during the cleaning and extraction procedure, including: the catheterization, intubation and anesthesia provided; cleaning and polishing teeth; taking dental radiographs; identification of specific teeth extracted, by number; closing of sites; post-operative temperature; pulling of the catheter; status of medication (none) and alternative (injection of concevia); recheck in two weeks, and oral homecare.

51. The plan section also detailed the components of Fuego's veterinarian care: callback professional dental – Grade 3; exam/preanesthetic; periodontal therapy/scale and polish;

catheter, intravenous w/procedure; fluids, intravenous w/procedure; injection, pain management, buprenex; anesthesia, isoflurane; radiograph, full mouth survey; oral surgery, extractions per minute; comprehensive complete blood count (CBC) and urine analysis (UA) in-house.

52. Respondent provided sufficient information regarding Fuego's general oral status. Respondent provided persuasive testimony that it is known in the profession that Grade 3 dental disease means gingivitis and upwards of a 50 percent loss of the attachment of the gums to the teeth. Respondent included a chart of Fuego's teeth in his records.

Examination Before Anesthesia

53. Dr. Markoff stated that anesthesia is an inherently risky procedure and requires a veterinarian to compile a history, physical examination, and other testing (lab work, x-rays) to determine the safest way to perform anesthesia on the patient. Dr. Markoff stated that although the medical history can be collected by someone other than the veterinarian, the veterinarian must review the history and is responsible for making sure the information is documented in the patient record.

54. Respondent ordered the lab work the same day, that morning, and prior to the anesthesia, examined Fuego, and reviewed the results of the CBC and UA.

55. Respondent did not recall her specific exams with Fuego, but she persuasively established, through her own and supporting testimony and letter declarations, her custom and practice of performing an appropriate physical examination consistent with Dr. Markoff's stated protocols and the pop-up check list in the objective section of the computer, record which she failed to complete. Respondent always examined her patients prior to administering anesthesia. Respondent confirmed at hearing that the substance of her physical examination was reported in the plan section of the records.

56. The plan section also detailed the components of Fuego's veterinarian care: callback professional dental – Grade 3; exam/preanesthetic; periodontal therapy/scale and polish; catheter, intravenous w/procedure; fluids, intravenous w/procedure; injection, pain management, buprenex; anesthesia, isoflurane; radiograph, full mouth survey; oral surgery, extractions per minute; comprehensive complete blood count (CBC) and urine analysis (UA) in-house.

57. There is insufficient evidence from Respondent's testimony, the supporting veterinarian records, and by history, that either anesthesia or the procedure, or both, were inappropriate. Examinations in the past had shown Fuego had a heart murmur first identified in 2010, and with less intensity on the following visit, no murmur was detected. There is no evidence that a murmur was detected during Respondent's first examination of Fuego on May 29, 2014, or the day of the extraction procedure, and based upon Respondent's adherence to examination protocols, Respondent would have identified it. Although a murmur is a clinical finding, it is not a diagnosis of heart disease, especially after a period of years and four examinations. (Exhibit D-1.)

58. Respondent provided sincere and persuasive testimony, based upon her own education, training, and long-standing practice of treating felines, that she appropriately examined Fuego prior to administering anesthesia and extracting his teeth. Respondent had a

robust practice devoted to felines and her compassion, concern and utmost care for her feline patients was clearly and persuasively communicated at hearing and by her character witnesses.

Respondent's History

59. Respondent demonstrated she is a highly-qualified veterinarian with a specialty in feline care. Respondent founded and operated the only exclusively feline practice in Los Angeles County for 28 years; from 1985 through 2013, she was the owner-veterinarian, founder and chief veterinary medical officer for Westside Hospital for Cats. When Westside Hospital for Cats was incorporated in September 2000 she became owner, managing veterinarian, chief medical officer, and president of Westside Hospital for Cats, Inc. Respondent had a robust practice with a large staff and other veterinarians. With the downturn in the economy in 2008, her practice declined slowly until it closed.

60. After Respondent closed her practice, she transferred her staff and clients to T.H.E. Westside Cat Practice where she also performed the clinical veterinary duties as the only veterinarian. She found it difficult for many of her clients to travel to the new location and ultimately the merger did not work. On August 29, 2015, she left the practice. There is no evidence that she left T.H.E. Westside Cat Practice due to concerns about her competency as a veterinarian or the allegations or causes presented in the First Amended Accusation.

61. Respondent provided oversight for all veterinary services, taught and mentored pre-veterinary and veterinary students, and maintained certification by the American Board of Veterinary Practice (ABVP) in feline practice through 2015. After she left T.H.E. Westside Cat Practice, she maintained a variety of veterinary positions, mainly as a relief veterinarian covering veterinarians on vacation or veterinary practices that required temporary help. She also taught and mentored veterinarians. Respondent served in leadership positions in professional veterinarian associations, including Feline Regent, Vice-President, and President of the ABVP (Exhibit R), and the Executive Director of the American Association of Feline Practice.

62. As part of her veterinary practice, Respondent participated in the community by offering free services to feline adoption services.

63. In August 2014, Respondent started a mobile feline and house call practice, Elite Cat Care, and maintains hospital privileges for her patients with Center-Sinai Veterinary Hospital for anesthesia, dentistry, surgery, radiographs, and laboratory testing.

64. Until this accusation, Respondent had no history of discipline; she recalled only one citation from the Board many years ago, and two patient complaints to the Board, which did not result in a Board investigation, a citation, reprimand or discipline of any kind.

65. There is no evidence that Respondent was impaired either in her exercise of her responsibilities as a veterinarian, or in her ability to manage her veterinary practices, due to her alcohol-related convictions or cocaine use.

Rehabilitation

66. Respondent is well-versed in the Alcoholics Anonymous (AA) 12-step program; she first joined AA in 1989. She does not have a sponsor.

67. Since 2014, she has been through the 12-steps twice, as AA believes that repetition of the steps is required for ongoing sobriety.

68. Respondent did not know the total numbers of her voluntary attendance at AA meetings since her 2013 conviction beyond what was required by her probation, but she estimates she attended over twice the number of meetings required by her second-offender probationary program, but her full attendance remains uncertain as she did not provide attendance sheets for all the meetings she said she attended. (Exhibit P.)

69. After her 18-month second offender program concluded, Respondent estimated she attended approximately 30 meetings.

70. Respondent last had a drink of wine in late November 2016 to celebrate her 60th birthday.

71. After her meeting with the Board investigators, Respondent voluntarily enrolled in an outpatient drug abuse program with the Matrix Institute.

72. The Matrix Institute is a 12-week outpatient program consisting of individual therapy, once a week, group meetings three times a week, and random drug testing. Participants were also required to do "homework" to work on their self-awareness of what triggers their drug or alcohol abuse and what they can do to avoid or respond to high-risk situations. Dr. Stimson explained that triggers vary with the person; odors and the time of day are big triggers.

73. Janice Stimson, Psy.D., Clinical Director of the Matrix Institute West Los Angeles, and a well-qualified licensed clinical psychologist specializing in addiction, provided comprehensive testimony about the Matrix Institute's program and Respondent's participation in the program. Dr. Stimson has been involved with substance abuse programs for over twenty years and has seen hundreds of adults with substance abuse programs as a clinical psychologist and manager of various substance abuse programs.

74. Based upon her direct consultation with Respondent as a clinician, Dr. Stimson provided support for Respondent's stated commitment to sobriety.

75. Dr. Stimson also provided an affidavit which endorsed Respondent's continued work as a veterinarian based upon her knowledge of her devotion to her professions, and observations of her compassion toward others, in group situations. (Exhibit Q-2.)

76. Dr. Stimson confirmed that Respondent's drug abuse was triggered by a specific person, and her success depended on her avoiding this person. At the time Respondent joined Matrix, she was struggling with her business, her family and her finances; she had to leave her home and rent an apartment.

77. Dr. Stimson described Respondent as a highly-motivated and positive participant in group therapy; Respondent provided support and encouragement in meetings and was candid about her own struggles. Respondent admitted to Dr. Stimson and the group that she used cocaine when she was with this one individual. Respondent's attendance was "stellar," which is not typical. Respondent communicated her love for her profession and her desire to keep working as a veterinarian as motivation for her sobriety.

78. Dr. Stimson diagnosed Respondent with a cocaine abuse disorder under the Diagnostic Statistical Manual, Fifth Edition (DSM-5), diagnostic code 304.20. (Exhibit L.) Dr. Stimson considered Respondent's disorder treatable and distinguished Respondent's addictive traits from a person who exhibits cocaine dependence, i.e., someone who develops a tolerance over time and requires more and more stimulant to satisfy her addiction.

79. Matrix's random drug testing is well-designed to measure sobriety. If a participant does not test when called, Matrix counts the absence, as a positive test. There is no evidence that Respondent ever refused to test.

80. Dr. Stimson described Respondent in the early "fragile" stages of recovery at the time of her discharge from Matrix in September 2014. After completing the Matrix core program, Respondent continued to submit to random drug testing through March 2015, and started testing again in 2016, with her last test reported in March 2017. After her last positive test result on June 24, 2016, Respondent's test results through March 27, 2017, were negative. (Exhibit M.)

81. Dr. Stimson described recovery as a process, and maintained, based upon the research and her experience, that occasional positive test results are expected as "slip-ups" and part of the recovery process. Respondent tested negative for a five-month period until two positive tests in March 2015. Dr. Stimson was encouraged by her steady commitment to sobriety, and Respondent's submission to testing, despite her knowledge she slipped, demonstrated she remained committed to a goal of sobriety.

82. Dr. Stimson was informed of the allegations and causes against Respondent, volunteered to testify without any payment, and felt confident Respondent would achieve her goal of sobriety as long as she avoids "people triggers" and is "mindful" of her recovery program. Respondent will benefit from continued outpatient participation in a program like Matrix and testing.

83. Respondent's progress in achieving sobriety and maintaining her commitment to her profession was supported by the testimony and the written affidavit of Alexandra Garafolo. (Exhibit Q-1.) Ms. Garafolo participated in Matrix with Respondent and developed a close personal relationship with her. Ms. Garafolo is sober, and she and Respondent rely upon each other to support their sobriety. She also worked for a time with Respondent in her new business by assisting her with marketing, setting up social media materials, and with house calls. Ms. Garafolo considers Respondent a dependable person, both as friend and a veterinarian. As a friend Respondent remains a trusted part of Ms. Garafolo's support network; Respondent always answers her telephone calls. As a professional, Ms. Garafolo has observed Respondent with her clients and feline patients and has seen the trust they place in her. Respondent's clients consider their pets their children and they clearly trust Respondent with them.

Mitigation Witness Testimony

Diane Steinberg, DVM

84. Respondent offered the testimony of Diane Steinberg, DVM, owner of the Cat Clinic of Orange County, which she started in 1988 and has owned or worked with since that time. Dr. Steinberg is a graduate of the University of California, Davis, School of Veterinary Medicine, and has been certified by the ABVP in feline practice since 1995, and maintains professional membership in several veterinary medical clinics. Dr. Steinberg was not paid for her testimony and testified in support of Respondent's character and reputation as a good feline veterinarian, her competent and thorough record-keeping, and the importance of a mobile feline cat practice, such as the one Respondent owns and operates.

85. Dr. Steinberg was familiar with Respondent's examinations as she had retained Respondent to cover her clients for a total of five full-time days, over the course of two weeks, when she was away from her practice. Upon her return, Dr. Steinberg reviewed Respondent's records, found nothing wrong, and received positive feedback from her staff and clients about Respondent's work. Dr. Steinberg was confident of Respondent's skills and reputation as a good feline veterinarian because, as an active member of the community of feline specialists, she remains well-informed of Respondent's positive reputation.

86. As a long-standing specialist in feline veterinary practice, Dr. Steinberg emphasized the importance of a mobile feline practice. Dr. Steinberg read the First Amended Accusation, and her opinion regarding Respondent remains unchanged. She maintains that Respondent's contribution to the community is critical for underserved individuals who can only access veterinary services for their felines through the mobile service Respondent offers. Many of the individual feline owners are elderly, or physically disabled, with limited mobility, and others are physically disabled. In addition to the obstacles facing the owners, many felines have a fear of travel, and are difficult to transport. Examining feline patients in their own homes is often the only way to meet the goal of regular and timely check-ups.

87. There is no evidence that Respondent was impaired in the exercise of her professional duties as a relief veterinarian for Dr. Steinberg. Dr. Steinberg has known Respondent for many years; they would meet at professional gatherings yearly. She has never observed Respondent to be impaired by alcohol or drugs. Dr. Steinberg did not get paid for her appearance and testimony at the hearing.

Cynthia E. Trammel

88. Respondent's value as a veterinarian specializing in felines was also endorsed by client Cynthia E. Trammel, who provided persuasive testimony and a declaration (Exhibit Q-3) about Respondent's skills as a veterinarian. Ms. Trammel, an adjunct professor in paralegal studies at the University of California, Los Angeles, began relying on Respondent in 1998 or 1999 to care for her own felines, her mother's felines, and felines she referred to Respondent as part of her volunteer work with a feline rescue group.

89. For approximately 16 years, she observed Respondent during examinations of felines, three or four times yearly. Ms. Trammel explained "we don't speak for animals," so we

have to trust the provider. She considered Respondent a capable and honest veterinarian and a good diagnostician, who would never recommend a procedure that was unnecessary. She found Respondent's explanations of her felines' conditions understandable and trustworthy. She offered that her elderly feline, who died at 16 years-old, would not have lived an active and healthy life without Respondent's care; he was in Respondent's care since he was 6 weeks old.

90. Ms. Trammel also observed Respondent with other clients. She gave each client the same exact service and she could tell from watching her clients that they understood Respondent's advice.

91. Ms. Trammel no longer has felines, but her trust in Respondent is so great, if Respondent no longer practiced, it would impact her decision to foster more felines. She did not know about Respondent's mobile feline service, but she repeated the sentiment of Dr. Steinberg that the service is valuable; she had experience with geriatric felines being stressed out with car rides.

92. Ms. Trammel did not get paid for her appearance, understood the allegations, and testified because she appreciated Respondent's "wonderful" skills at a veterinarian, who provided a great contribution to the community

Elyse Webb-Wilson

93. Elyse Webb-Wilson, who worked with Respondent from 2006 through 2014, testified that Respondent had a consistent practice of following the protocols for examining feline patients. (Exhibit Q-4) When Respondent closed her own practice in 2013 and merged her staff and clients with another practice, Ms. Webb-Wilson joined Respondent as hospital manager. Ms. Webb-Wilson provided credible testimony of her years working with Respondent where she witnessed Respondent's examination of felines and her fidelity to examination protocols.

94. Ms. Webb-Wilson does not recall Fuego, but she was well-versed in Respondent's practices and attested to Respondent's care and compassion for her patients and their owners, and the many clients who brought their cats to Respondent for second opinions. Ms. Webb-Wilson described Respondent as a generous and compassionate supervisor and clinician. Ms. Webb-Wilson was familiar with people who were impaired by drugs or alcohol and never saw Respondent impaired at work, or any changes in her demeanor or personality. Ms. Webb-Wilson also socialized with Respondent on occasion and never observed her impaired by drugs or alcohol.

Costs of Investigation and Prosecution

95. The Board has incurred \$15,137.50 in the form of Attorney General charges through March 1, 2017 (Exhibit 3), and \$4,508 (Vazquez, \$966; O'Keefe, \$3,542) in investigation charges during the 2013-2014 fiscal year (Exhibit 4), or a total of \$19,645.50, in connection with its investigation and enforcement of this matter.

96. Respondent challenges certain charges in the attorneys' fee bill as excessive: The 17 hours billed in 2016 should be cut to eight hours because only one cause for discipline was added to the Accusation in the First Amended Accusation; the 8 hours of legal time between the

mandatory settlement conference on December 2, 2016 and the draft of the stipulated settlement should be cut by four hours because Respondent's counsel did not receive the document until January 20, 2017, and it included primarily standard language.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. The purpose of licensing statutes and administrative proceedings enforcing licensing requirements is not penal but public protection. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 784-786; *Bryce v. Board of Medical Quality Assurance* (1986) 184 Cal.App.3d 1471, 1476.)

2. An individual who holds a license to practice a particular profession has a fundamental vested right to continue in that licensed activity. Procedural due process requires a regulatory Board or agency seeking to suspend or revoke a professional license to prove the allegations of an accusation by clear and convincing evidence, rather than proof by a preponderance of the evidence. (*Owen v. Sands* (2009) 176 Cal.App.4th 985, 991-992.)

3. Clear and convincing evidence requires a finding of high probability. The evidence must be so clear as to leave no substantial doubt. And, the evidence must be sufficiently strong to command the unhesitating assent of every reasonable mind. This requirement presents a heavy burden, far in excess of the preponderance of evidence standard that is sufficient for most civil litigation. (*Christian Research Institute v. Alnor* (2007) 148 Cal.App.4th 71, 84.)

4. The terms "burden of proof" and "burden of persuasion" are synonymous. *A party has the burden of proof as to each fact the existence or nonexistence of which is essential to the claim for relief or defense that he is asserting except as otherwise provided by law.* To prevail, the party bearing the burden of proof must present evidence sufficient to establish in the mind of the trier of fact a requisite degree of belief. The burden of proof does not shift during an adversarial hearing - it remains with the party who originally bears it.

5. Unlike the burden of proof, the burden of producing evidence may shift throughout the trial. Initially, the burden of producing evidence as to a particular fact rests on the party with the burden of proof. When that party fails to produce sufficient evidence to make a prima facie case, that party risks an unfavorable determination. But, once that party produces evidence sufficient to make its prima facie case, the burden of producing evidence shifts to the other party to refute the prima facie case. Even though the burden of producing evidence shifts, a party need not offer evidence in reply, but the failure to do so risks an adverse outcome. Once a prima facie showing is made, it is for the trier of fact to say whether or not the crucial and necessary facts have been established. (*Sargent Fletcher, Inc. v. Able Corp.* (2003) 110 Cal.App.4th 1658, 1667-1668.)

6. The burden of proof in this matter - the burden of persuasion - was on Complainant, to establish the allegations in the First Amended Accusation by clear and convincing evidence.

Relevant Disciplinary Statutes and Regulations

7. Business and Professions Code section 490 provides:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

8. Business and Professions Code section 4060 provides:

A person shall not possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the possession of any controlled substance by a manufacturer, wholesaler, third-party logistics provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock in containers correctly labeled with the name and address of the supplier or producer.

9. Business and Professions Code section 4875 states in pertinent part:

The board may revoke or suspend for a certain time the license or registration of any person to practice veterinary medicine or any

branch thereof in this state after notice and hearing for any of the causes provided in this article. In addition to its authority to suspend or revoke a license or registration, the board shall have the authority to assess a fine not in excess of five thousand dollars (\$5,000) against a licensee or registrant for any of the causes specified in Section 4883. A fine may be assessed in lieu of or in addition to a suspension or revocation.

10. Business and Professions Code section 4883 provides in pertinent part:

The board may deny, revoke, or suspend a license or registration or assess a fine as provided in Section 4875 for any of the following:

(a) Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, surgery, or dentistry, in which case the record of the conviction shall be conclusive evidence.

[¶] . . . [¶]

(g) Unprofessional conduct, that includes, but is not limited to, the following:

[¶] . . . [¶]

(2)(A) The use of or prescribing for or administering to himself or herself, any controlled substance.

(B) The use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages to the extent, or in any manner as to be dangerous or injurious to a person licensed or registered under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person so licensed or registered to conduct with safety the practice authorized by the license or registration.

(C) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section or any combination thereof, and the record of the conviction is conclusive evidence. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the license or registration to be suspended or revoked or assess a fine, or may decline to issue a license or registration, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of

sentence, irrespective of a subsequent order under Section 1203.4, 1210.1, or 3063.1 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(3) A violation of any federal statute, rule, or regulation or any of the statutes, rules, or regulations of this state regulating dangerous drugs or controlled substances.

[¶] . . . [¶]

(o) Violation, or the assisting or abetting violation, of any regulations adopted by the board pursuant to this chapter.

11. Business and Professions Code section 4885 provides:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense related to the practice of veterinary medicine or the practice of a veterinary technician is deemed to be a conviction within the meaning of this article. The board may order the license or registration to be suspended or revoked, or assess a fine as provided in Section 4883 or may decline to issue a license or registration, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1210.1, or 3063.1 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

12. Health and Safety Code section 11350 prohibits possession of any controlled substance, as specified, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state.

13. Health and Safety Code section 11550 provides that a person shall not use, or be under the influence of, any controlled substance, as specified, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances.

14. California Code of Regulations, title 16, section 2032.3 provides in relevant part:

(a) Every veterinarian performing any act requiring a license pursuant to the provisions of Chapter 11, Division 2, of the code, upon any animal or group of animals shall prepare a legible

written or computer generated record concerning the animal or animals which shall contain the following information:

[¶] . . . [¶]

(6) A history or pertinent information as it pertains to each animal, herd, or flock's medical status.

(7) Data, including that obtained by instrumentation, from the physical examination.

[¶] . . . [¶]

(9) Records for surgical procedures shall include a description of the procedure, the name of the surgeon, the type of sedative/anesthetic agents used, their route of administration, and their strength if available in more than one strength.

(10) Diagnosis or assessment prior to performing a treatment or procedure.

15. California Code of Regulations section 2032.4 provides in relevant part:

(a) General anesthesia is a condition caused by the administration of a drug or combination of drugs sufficient to produce a state of unconsciousness or dissociation and blocked response to a given pain or alarming stimulus.

(b) When administering general anesthesia, a veterinarian shall comply with the following standards:

(1) Within twelve (12) hours prior to the administration of a general anesthetic, the animal patient shall be given a physical examination by a licensed veterinarian appropriate for the procedure. The results of the physical examination shall be documented in the animal patient's medical records.

16. California Code of Regulations, title 16, section 2040 provides:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under Chapter 11 of Division 2 of the code if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by his or her license in a manner consistent with the public health, safety

or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 11, Division 2 of the code.

(b) Conviction of a crime involving fiscal dishonesty.

First Cause for Discipline – Violation of Board Regulations

17. The First Cause for Discipline alleges that Respondent is subject to disciplinary action under Business and Professions Code section 4883, subdivision (o), because she violated regulations adopted by the Board, California Code of Regulations sections 2032.3, subdivision (a)(6), (7), (9), and (10), and 2032.4, subdivision (b)(1) in that, on or about May 29, 2014, Respondent failed to record findings from a physical examination performed on Fuego, and on or about February 20, 2015, Respondent failed to document an adequate medical history for Fuego, failed to record an adequate description of a tooth-extraction procedure, failed to record a diagnosis or assessment on Fuego, and failed to physical examine Fuego or else failed to document the results of a physical examination of Fuego before he was anesthetized.

18. Respondent documented an adequate medical history for Fuego on or about February 20, 2015, by reason of Factual Findings 31 through 34, and 38 through 43. Complainant did not meet her burden of proving by clear and convincing evidence, cause to discipline Respondent's license and licensing rights, pursuant to Business and Professions Code section 4883, subdivision (o) for a violation of California Code of Regulations, title 16, section 2032.3, subdivision (a)(6).

19. Respondent did not record findings from a physical examination that she performed on Fuego on or about May 29, 2014. By clear and convincing evidence, cause exists to discipline Respondent's license and licensing rights, pursuant to Business and Professions Code section 4883, subdivision (o) because Respondent violated California Code of Regulations, title 16, section 2032.3, subdivision (a)(7) by reason of Factual Findings 28 through 30, and 32 through 37, along with Legal Conclusions 10 and 14.

20. Respondent did not record an adequate description of the tooth-extraction procedure that she performed on Fuego on or about February 20, 2015. By clear and convincing evidence, cause exists to discipline Respondent's license and licensing rights, pursuant to Business and Professions Code section 4883, subdivision (o) because Respondent violated California Code of Regulations, title 16, section 2032.3, subdivision (a)(9) by reason of Factual Findings 28 through 34, and 44 through 45, along with Legal Conclusions 10 and 14.

21. Respondent recorded on or about February 20, 2015, a diagnosis or assessment of Fuego's general oral status by reason of Factual Findings 47 and 49 through 52. However, Respondent did not record a diagnosis for each tooth requiring extraction. By clear and convincing evidence, cause exists to discipline Respondent's license and licensing rights, pursuant to Business and Professions Code section 4883, subdivision (o) because Respondent

violated California Code of Regulations, title 16, section 2032.3, subdivision (a)(10) by reason of Factual Findings 46 through 49, along with Legal Conclusions 10 and 14.

22. Respondent provided sufficient proof of performing a physical examination of Fuego before performing anesthesia by reason of Factual Findings 54 through 58. However, Respondent failed to document the results of a physical examination of Fuego before Respondent anesthetized Fuego on or about February 20, 2015. By clear and convincing evidence, cause exists to discipline Respondent's license and licensing rights, pursuant to Business and Professions Code section 4883, subdivision (o) because Respondent violated California Code of Regulations, title 16, section 2032.4, subdivision (b)(1) by reason of Factual Findings 28 through 29, 32 through 34, and 53 through 56, along with Legal Conclusions 10 and 15.

Second Cause for Discipline – Conviction of a Substantially Related Crime

23. The Second Cause for Discipline alleges that Respondent is subject to disciplinary action under Business and Professions Code sections 490 and 4883, subdivision (a), and 4885, in conjunction with California Code of Regulations, title 16, section 2040, because she was convicted of a crime that is substantially related to the qualifications, functions, and duties of a veterinarian.

24. Cause exists to revoke or suspend Respondent's Veterinarian License, pursuant to Business and Professions Code sections 490 and 4883, subdivision (a), in conjunction with Business and Professions Code section 4855, and California Code of Regulations, title 16, section 2040, and the Second Cause for Discipline, for conviction of a crime substantially related to the qualifications, functions, and duties of a veterinarian, by reason of Factual Findings 4 through 10, 14, and 17, and Legal Conclusions 7, 9 through 11, and 16.

Third Cause for Discipline – Illegal Use of a Controlled Substance

25. The Third Cause for Discipline alleges that Respondent is subject to disciplinary action under Business and Professions Code section 4883, subdivision (g)(2)(A), in conjunction with California Code of Regulations, title 16, section 2040, for unprofessional conduct in that Respondent illegally used and self-administered a controlled substance, cocaine.

26. Cause exists to revoke or suspend Respondent's Veterinarian License, pursuant to Business and Professions Code section 4883, subdivision (g)(2)(A), in conjunction with California Code of Regulations, title 16, sections 2040, and the Third Cause for Discipline, for engaging in unprofessional conduct by illegally using and self-administering a controlled substance, cocaine, by reason of Factual Findings 11 through 14, and 18, and Legal Conclusions 9, 10, and 16.

Fourth Cause for Discipline – Dangerous Use of Drugs and Alcohol

27. The Fourth Cause for Discipline alleges that Respondent is subject to disciplinary action under Business and Professions Code section 4883, subdivision (g)(2)(B), in conjunction with California Code of Regulations, title 16, section 2040, for unprofessional conduct in that Respondent used dangerous drugs and alcoholic beverages to an extent or in a manner as to be dangerous or injurious to herself and others.

28. Cause exists to revoke or suspend Respondent's Veterinarian License, pursuant to Business and Professions Code sections 4883, subdivision (g)(2)(B), in conjunction with California Code of Regulations, title 16, sections 2040, and the Fourth Cause for Discipline, for engaging in the dangerous use of drugs and alcohol, by reason of Factual Findings 4 through 14, and 19, and Legal Conclusions 9, 10, and 16.

Fifth Cause for Discipline – Multiple Convictions Involving Alcohol

29. The Fifth Cause for Discipline alleges that Respondent is subject to disciplinary action under Business and Professions Code section 4883, subdivision (g)(2)(C), in conjunction with California Code of Regulations, title 16, section 2040, for unprofessional conduct in that Respondent was convicted of more than one misdemeanor involving the use, consumption, or self-administration of alcohol.

30. Cause exists to revoke or suspend Respondent's Veterinarian License, pursuant to Business and Professions Code sections 4883, subdivision (g)(2)(C), and 4885, in conjunction with California Code of Regulations, title 16, sections 2040, and the Fifth Cause for Discipline, for engaging in unprofessional conduct in that Respondent was convicted of more than one misdemeanor, involving the use, consumption, or self-administration of alcohol by reason of Factual Findings 4 through 10, 14, and 20, and Legal Conclusions 9 through 11, and 16.

Sixth Cause for Discipline – Violation of State Drug Laws

31. The Sixth Cause for Discipline alleges that Respondent is subject to disciplinary action under Business and Professions Code section 4883, subdivision (g)(3), for unprofessional conduct in that Respondent violated state laws regulating dangerous drugs and controlled substances as follows: (1) Health and Safety Code section 11350, which makes it a crime for a person to possess cocaine; (2) Business and Professions Code section 4060, which prohibits the possession of a controlled substance except upon a valid prescription; and (3) Health and Safety Code section 11550, which prohibits the use of certain controlled substances, including cocaine, except when administered by or under the direction of a person licensed by the state to dispense, prescribe or administer controlled substances.

32. Cause exists to revoke or suspend Respondent's Veterinarian License, pursuant to Business and Professions Code section 4883, subdivision (g)(3), and the Sixth Cause for Discipline, for engaging in unprofessional conduct involving the violation of state laws regulating dangerous drugs and controlled substances, by reason of Factual Findings 11 through 14, and 21, and Legal Conclusions 8 through 10, and 12 through 13.

Seventh Cause for Discipline – Unprofessional Conduct

33. The Seventh Cause for Discipline alleges that Respondent is subject to disciplinary action under Business and Professions Code section 4883, subdivision (g), for unprofessional conduct.

34. Cause exists to revoke or suspend Respondent's Veterinarian License, pursuant to Business and Professions Code section 4883, subdivision (g), and the Seventh Cause for

Discipline, for engaging in unprofessional conduct, by reason of Factual Findings 4 through 14, 17 through 21, and Legal Conclusions 7 through 13 and 16.

Rehabilitation

35. Rehabilitation is a “state of mind” and the law looks with favor upon rewarding with the opportunity to serve, one who has achieved “reformation and regeneration.” (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) While a candid admission of misconduct and full acknowledgment of wrongdoing are necessary steps in the rehabilitation process, they are only first steps. A truer indication of rehabilitation is presented if an individual demonstrates by sustained conduct over an extended period of time that he is once again fit to practice. (*In re Trebilcock* (1981) 30 Cal.3d 312, 315-316.)

36. Pursuant to California Code of Regulations, title 16, section 2041, subdivision (b), when considering the suspension or revocation of a license on the ground that the licensee has been convicted of a crime, the Board, shall in evaluating the rehabilitation of such person and his or her eligibility for a license will consider the following criteria:

- a. Nature and severity of the act(s) or offense(s).
- b. Total criminal record.
- c. The time that has elapsed since commission of the act(s) or offense(s).
- d. Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- e. If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- f. Evidence, if any, of rehabilitation submitted by the licensee.

37. When the relevant criteria set forth in California Code of Regulations, title 16, section 2041, subdivision (b) are considered, Respondent has not shown sufficient rehabilitation evidence as to avoid license revocation. The crimes for which Respondent was convicted in 2008 and 2014 were serious and involved driving under the influence. These are the only two convictions of Respondent. Three years has elapsed since her last conviction, and during that time, Respondent has failed to obey the law as required by her court probation, which does not end until February 15, 2018, as she has tested positive for a controlled substance, cocaine, four times between 2014 and 2016. Respondent has not provided evidence of conviction expungement pursuant to Section 1203.4 of the Penal Code.

38. Despite her struggles with sobriety, Respondent demonstrated she is an accomplished, responsible and compassionate veterinarian, who has expressed a willingness to continue random drug testing, and continue participation in a recovery support group as a condition of licensure.

39. Based upon Dr. Stimson's testimony, Respondent requires drug testing and continued involvement in a support network. At one time, Respondent participated in weekly alumni meetings at Matrix. Through Matrix she developed a strong support network, which included Ms. Garafolo. Respondent has not attended AA and insists she will return, but her promise is not enough; she must adhere to a consistent schedule of participation in a recovery support group, such as AA or Matrix.

Matters in Mitigation

40. Respondent's compassion and care for people and animals was firmly supported by the testimony and affidavits of her professional and personal associates, Ms. Steinberg, Dr. Stimson, Ms. Webb-Wilson, Ms. Trammel and Ms. Garafolo. There was no evidence that her personal challenges with sobriety affected her professional obligation as a veterinarian. Her mobile feline veterinary service provides an important service to the community. Respondent's business, Elite Cat Care, provides a service to the community by bringing needed clinical care to clients and feline patients who cannot travel to a brick-and-mortar veterinary facility.

41. Respondent fully cooperated with the Board in its investigation. She stipulated to the facts relating to her convictions and alcohol and drug abuse. She voluntarily submitted to random drug testing, and during the months prior to the hearing, her tests were negative. Respondent is passionate about her career and is committed to her profession, and a community of home-bound clients and feline patients. She has developed a working relationship with veterinary facilities for privileges so she can provide services to her feline patients that she cannot provide in their homes.

42. Respondent has improved her record-keeping. In developing her business, Respondent learned from her record-keeping errors at T.H.E. Westside Cat Practice, and improved her record-keeping so that it is more comprehensive in describing all parts of the SOAP record-keeping protocols. (Exhibit W.)

Matters in Aggravation

45. Respondent has two convictions for driving under the influence.

46. While on criminal probation, which began on February 15, 2013, Respondent violated the terms of her probation to obey all laws when she tested positive for a controlled substance, cocaine, four times, most recently on June 24, 2016. Respondent admitted that her alcohol sobriety date is November 30, 2016.

Disciplinary Considerations

47. Protection of the public shall be the highest priority for Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. The Board fulfills its public mandate by, among other things, imposing discipline. It is very important that licensees abide by applicable physical therapy laws.

48. The Board enacted the Disciplinary Guidelines, a comprehensive regulatory guideline to be followed in disciplinary actions. The purpose of veterinarian licensure in the State of California is to protect the public's health, safety and welfare from the incompetent and unprofessional practice of veterinary medicine. In addition to protecting the public and rehabilitating a licensee, the Board finds imposing the discipline set forth in the guidelines will further provide public protection by promoting uniformity, certainty, fairness, and deterrence.

49. If the discipline is being imposed for abuse of alcohol, the minimum discipline that should be considered is revocation, stayed, suspension until the ability to practice safely is determined, and participation in the rehabilitation program, 5 years' probation or until satisfactory completion of the rehabilitation program, whichever is longer, while the maximum discipline that should be imposed is revocation and a \$5,000 fine.

50. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. A conviction demonstrates a lack of judgment and unwillingness to obey a legal prohibition and also exhibits characteristics and actions that do not demonstrate that he or she exercises prudence and good judgment. Therefore, the conviction is substantially related to the qualifications, functions and duties as a licensee.

Discipline and Departure from Disciplinary Guidelines

51. When Respondent's overall contribution to the profession is considered, along with her rehabilitation of her record-keeping, and factors in mitigation, and aggravation, the public will be well-protected, with a stay of revocation, and probationary terms that are consistent with a requirement that respondent maintain sobriety and rigor in her record-keeping. This is not a case where the care of an animal was compromised by respondent's actions, or of fraud and self-dealing in the management of a veterinary practice. Respondent has demonstrated a career of competence, compassion, and care of felines. Nevertheless, without exception, as a medical professional, respondent is required to remain sober for the protection of the public, and the disciplinary guidelines provide adequate protection to the public if respondent fails in her commitment to sobriety.

52. Respondent will remain on probation for five years.

53. As part of her duty to obey all laws, respondent shall be required to adhere to the probationary requirements of any conviction and report to the Board on a quarterly basis her status.

54. Respondent shall be required to be part of a drug rehabilitation program during the entire probationary period, which may include Matrix and/or AA, subject to the Board's approval. Respondent has not completed her court-ordered probation, and it is not scheduled to end until 2018. By requiring respondent to remain part of a drug rehabilitation program for five years, respondent will remain focused on sobriety after her criminal probation ends.

55. Respondent will be required to abstain from alcohol and drugs for five years, and submit to random drug testing throughout probation.

56. Respondent shall be required to participate in continuing education focused on record-keeping and any other area directed by the Board.

57. Respondent will be required to pay for the costs of probation, including monitoring, inspections, random drug testing, and any costs associated with private drug treatment, such as Matrix, if AA is not an option acceptable to the Board. Respondent is also responsible for the payment of the reasonable costs of investigation and prosecution.

58. Careful consideration and deference have been given to the Board's Guidelines, (exhibit 15), and furthering the underlying purpose of the Guidelines to protect the public, instead of merely punishing the respondent. The following modifications to the Guidelines were made to advance the goals of probation.

59. Payment of Fines: Respondent shall not be required to pay a one-time fine in addition to the payment of reasonable costs of investigation and prosecution, random drug testing, and other costs of probation. Given respondent's financial circumstances, this additional fine is punitive and not directly related to protecting the public.

60. A period of suspension will not be required. There is insufficient support for a period of suspension as a public protection. Respondent has limited financial resources and a developing mobile practice which provides a public service to homebound feline patients and respondent's clients. Respondent provides capable veterinary services, and has reformed her record-keeping. There is no evidence that a period of suspension is required for respondent to change or terminate her solo practice. Respondent is required to pay the reasonable costs of the investigation and prosecution and will bear the cost of a five-year probationary period.

61. A supervised practice is not required. Respondent shall be allowed to continue her current mobile practice, Elite Cat Care, without the restriction of a supervised practice. Respondent performs an important public service by providing veterinary services to underserved clients and patients. There was insufficient evidence that respondent's mistakes in record-keeping supported a conclusion she failed to appropriately examine Fuego before his anesthesia and procedure, and that additional supervision would resolve her record-keeping gaffes. Respondent has improved her record-keeping. As to respondent's need to be supervised in other practices, Dr. Steinberg, persuasively established that respondent is capable and responsible. There is no credible evidence that respondent failed in her treatment of Fuego, or any other animal.

62. No restriction on the type of practice and where restrictions are placed, such in the ownership of practices, Elite Cat Care is exempted. There is no evidence that respondent should be restricted from practicing in a particular area of veterinary practice. Restrictions on respondent's ownership and partnership remain, but exceptions are made for Elite Cat Care.

Costs of Investigation and Prosecution

63. Business and Professions Code section 125.3 prescribes that a "licentiate found to have committed a violation or violations of the licensing act" may be directed "to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

64. The Board has incurred \$15,137.50 in the form of Attorney General charges through March 1, 2017 (Exhibit 3), and \$4,508 (Vazquez, \$966; O'Keefe, \$3,542) in investigation charges during the 2013-2014 fiscal year (Exhibit 4), or a total of \$19,645.50, in connection with its investigation and enforcement of this matter.

65. Respondent challenges certain attorneys' fee bill as excessive on its face: The 17 hours billed in 2016 should be cut to eight hours because only one cause for discipline was added to the Accusation in the First Amended Accusation; the 8 hours of legal time between the mandatory settlement conference on December 2, 2016 and the draft of the stipulated settlement should be cut by four hours because Respondent's counsel did not receive the document until January 20, 2017, and it included primarily standard language.

66. Respondent's challenges to the attorneys' fee bill are reasonable: the attorneys' fees are reduced by 12 hours at \$170.00 dollars an hour, or \$2,040. The reasonable attorneys' fees are \$13,097.50.

67. In determining the appropriateness and suitability of costs to this particular matter regarding Respondents, an analysis under *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 requires the consideration of the following factors in determining the amount of costs to be assessed:

- The Board must not assess the full costs of prosecution when to do so will unfairly penalize a licensee who has committed some misconduct, but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed;
- The Board must consider the licensee's subjective good faith belief in the merits of his position;
- The Board must consider whether the licensee has raised a colorable challenge to the proposed discipline;
- Furthermore, as in cost recoupment schemes in which the government seeks to recover from criminal defendants the cost of their state-provided legal representation, the Board must determine that the licensee will be financially able to make payments; and
- Finally, the Board may not assess the full costs of prosecution when it has conducted a disproportionately large investigation or prosecution effort to prove that a licensee engaged in relatively straight-forward misconduct.

68. In this case, there is no challenge to the costs of investigation which are reasonable given the scope of the investigation conducted, but the challenges to the legal fees are sustained. The reasonable costs of the prosecution and investigation are reduced by \$2,040 to \$17,605.50.

69. Respondent has limited resources. She is the sole owner and veterinarian of Elite Cat Care, a mobile cat service. She rents an apartment and her finances are modest. Respondent

will be responsible for the costs of probation, as well, which will include random drug testing. Respondent credibly testified she would not be able to afford much interruption in her practice, in the form of suspension, without losing her apartment, closing her practice, and moving out-of-state to live with her family.

70. Respondent asserted her right to a fair hearing, and provided a vigorous and colorable defense to the Complainant's causes for discipline regarding her treatment of Fuego. Complainant met her burden of proof with regard to certain allegations, but not all, concerning record-keeping errors, but did not meet her burden of proof on allegations that Respondent failed to properly examine Fuego before administering anesthesia.

71. Respondent is not financially secure. She is self-employed as a veterinarian and relies upon her income from her mobile service, Elite Cat Care. Charging Respondent with the full cost of the investigation would be punitive.

72. Accordingly, the costs of investigation and enforcement will be reduced by sixty percent (60%), or \$10,563.30, from \$17,605.50 to \$7,042.20, which are the reasonable costs in this matter. Respondent will be permitted to make installment payments during the term of her probation.

Disposition

73. The objective of an administrative proceeding relating to licensing is to protect the public. Such proceedings are not for the primary purpose of punishment. (See *Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 817.) The matters set forth in Factual Findings 1 through 96 have been considered by the Board in making the following order.

ORDER

Veterinarian License number 7368 issued to Elyse Marie Kent, D.V.M. is revoked. However, the revocation is stayed, and Respondent's license is placed on probation for five (5) years upon the following terms and conditions.

1. **OBEY ALL LAWS.** Respondent shall obey all federal and state laws and regulations substantially related to the practice of veterinary medicine. Further, within thirty (30) days of any arrest or conviction, Respondent shall report to the Board and provide proof of compliance with the terms and conditions of the court order including, but not limited to, probation and restitution requirements

Respondent shall also comply with the terms of probation of any conviction. Respondent shall notify the Board of violations of probation within (30) days of the violation and, as part of the quarterly report and interview, report to the Board the status of the probation, and provide proof of compliance with the terms of the probation.

2. **QUARTERLY REPORTS AND INTERVIEWS.** Respondent shall report quarterly to the Board or its designee, under penalty of perjury, on forms provided by the Board, stating whether there has been compliance with all terms and conditions of probation. In addition, the Board at its discretion may request additional in-person reports of the probationary

terms and conditions. If the final written quarterly report is not made as directed, the period of probation shall be extended until such time as the final report is received by the Board. Respondent shall make available all patient records, hospital records, books, logs, and other documents to the Board, upon request.

3. **COOPERATION WITH PROBATION SURVEILLANCE.** Respondent shall comply with the Board's probation surveillance program. All costs for probation monitoring and/or mandatory premises inspections shall be borne by Respondent. Probation monitoring costs are set at a rate of \$100 per month for the duration of the probation. Respondent shall notify the Board of any change of name or address or address of record within thirty (30) days of the change. Respondent shall notify the Board immediately in writing if Respondent leaves California to reside or practice in another state. Respondent shall notify the Board immediately upon return to California.

4. **NO PRECEPTORSHIPS OR SUPERVISION OF INTERNS.** Respondent shall not supervise a registered intern and shall not perform any of the duties of a preceptor.

5. **NOTICE TO EMPLOYERS.** Respondent shall notify all present and prospective employers of the decision in this case and the terms, conditions, and restrictions imposed on Respondent by the decision in this case. Within thirty (30) days of the effective date of this decision and within fifteen (15) days of Respondent undertaking new employment, Respondent shall cause his or her employer to report to the Board in writing, acknowledging the employer has read the Accusation and decision in this case and understands Respondent's terms and conditions of probation. Relief veterinarians shall notify employers immediately.

6. **NOTICE TO EMPLOYEES.** Respondent shall, upon or before the effective date of this decision, post or circulate a notice which actually recites the offenses for which Respondent has been disciplined and the terms and conditions of probation, to all registered veterinary employees, and to any preceptor, intern or extern involved in his or her veterinary practice. Within fifteen (15) days of the effective date of this decision, Respondent shall cause his/her employees to report to the Board in writing, acknowledging the employees have read the Accusation and decision in the case and understand Respondent's terms and conditions of probation.

7. **OWNERS AND OFFICERS (CORPORATIONS OR PARTNERSHIPS): KNOWLEDGE OF THE LAW.** Respondent shall provide, within thirty (30) days after the effective date of the decision, signed and dated statements from the owners, officers, or any owner or holder of ten percent (10%) or more of the interest in Respondent or Respondent's stock, stating said individuals have read and are familiar with federal and state laws and regulations governing the practice of veterinary medicine.

8. **TOLLING OF PROBATION.** If Respondent resides out of state upon effective date of the decision, she must comply with the following conditions only: quarterly reports and interviews, tolling of probation, continuing education and cost recovery. If Respondent returns to California she must comply or be subject to all probationary conditions for the period of probation.

Respondent, during probation, shall engage in the practice of Veterinary Medicine in California for a minimum of 24 hours per week for six (6) consecutive months or as determined by the Board. Should Respondent fail to engage in the practice of Veterinary Medicine in California as set forth above, the time outside of the practice shall not apply to reduction of the probationary terms.

9. **VIOLATION OF PROBATION.** If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against Respondent during probation, or if the Attorney General's office has been requested to prepare any disciplinary action against Respondent's license, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

10. **COMPLETION OF PROBATION.** All costs for probation monitoring and/or mandatory premises inspections shall be borne by Respondent. Failure to pay all costs due shall result in an extension of probation until the matter is resolved and costs paid. Upon successful completion of probation, Respondent's license will be fully restored.

11. **COST RECOVERY, PAYMENT OF FINES, PROBATION MONITORING COSTS.** Pursuant to Section 125.3 of the California Business and Professions Code, during the period of probation, Respondent shall reimburse the Board's costs of investigation and prosecution, in the amount of \$7,042.20, on a payment schedule approved by the Board. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis, on a payment schedule approved by the Board.

12. **LIMITATION ON PRACTICE/INSPECTIONS.** During probation, Respondent is prohibited from the following:

1. Practicing veterinary medicine from a location or mobile veterinary practice which does not have a current premises permit issued by the Board; and

2. If Respondent is the owner or managing licensee of a veterinary practice, the following probationary conditions apply:

a. The location or mobile veterinary practice must not only have a current premises permit issued by the Board, but must also be subject to inspections by a Board representative to determine whether the location or veterinary practice meets minimum standards for a veterinary practice. The inspections will be conducted on an announced or unannounced basis and shall be held during normal business hours. The Board reserves the right to conduct these inspections on at least a quarterly basis during probation. Respondent shall pay the Board for the cost of each inspection, which is \$500. If the veterinary practice has two consecutive non-compliant inspections, Respondent shall surrender the Premises Permit within ninety (90) days from the date of the second consecutive non-compliant inspection.

b. As a condition precedent to any Premises Permit issued to Respondent as owner or managing licensee, the location or mobile veterinary practice for which

the application is made shall be inspected by a Board representative to determine whether the location or mobile veterinary practice meets minimum standards for a veterinary practice. Respondent shall submit to the Board, along with any premises permit application, a \$500 inspection fee.

13. **NO OWNERSHIP.** With the exception of Elite Cat Care, Respondent shall not have any legal or beneficial interest in any business, firm, partnership, or corporation currently or hereinafter licensed or registered by the Board and shall not own any veterinary hospital.

14. **NO MANAGEMENT OR ADMINISTRATION.** With the exception of Elite Cat Care, Respondent shall not manage or be the administrator of any veterinary hospital.

15. **CONTINUING EDUCATION.** Within sixty (60) days of the effective date of this decision, and on an annual basis, Respondent shall submit to the Board for its prior approval, an educational program or course related to Respondent's specific area(s) of weakness in record-keeping, or any other area identified by the Board, for a minimum of four (4) hours during the first year of probation, and each year thereafter, until completion of probation. Upon successful completion of each course, Respondent shall provide proof to the Board. The programs or courses shall be in addition to the Continuing Education required of all licensees. All costs shall be borne by Respondent.

16. **REHABILITATION PROGRAM - ALCOHOL OR DRUG.** Within thirty (30) days of the effective date of this decision, Respondent shall submit in writing a(n) alcohol/drug rehabilitation program in which Respondent shall participate, (for the duration of probation) to the Board for its prior approval. The Board may consider Matrix and AA as an ongoing program. In the quarterly written reports to the Board, Respondent shall provide documentary evidence of continuing satisfactory attendance at meetings, and participation in counseling. All costs shall be borne by Respondent.

17. **SUBMIT BIOLOGICAL FLUID SAMPLES.** Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. There will be no confidentiality in test results; positive test results will be immediately reported to the Board and to Respondent's current employer.

18. **ABSTENTION FROM ALCOHOL USE.** Respondent shall abstain completely from the use of alcoholic beverages.

19. **ABSTAIN FROM CONTROLLED SUBSTANCES.** Respondent shall abstain completely from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in Section 4211 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness.

1. **ETHICS TRAINING.** Respondent shall submit to the Board for its prior approval, an ethics training course for a minimum of four (4) hours during the first year of probation, and each year thereafter, until completion of probation. Upon successful completion of each course, Respondent shall provide proof to the Board. All costs shall be borne by Respondent.

This Decision shall become effective on SEP 23 2017.

IT IS SO ORDERED this 23rd day of August, 2017.



Cheryl Waterhouse, DVM, President
FOR THE VETERINARY MEDICAL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **VETERINARY MEDICAL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:
13 **ELYSE MARIE KENT**
4139 Via Marina #1007
Marina Del Rey, CA 90292
14 **Veterinarian License No. VET 7368**
15 Respondent.

Case No. AV 2015 1
FIRST AMENDED ACCUSATION
[Gov. Code, § 11503.]

16
17 Complainant alleges:

18 **PARTIES**

19 1. Complainant Annemarie Del Mugnaio brings this Accusation solely in her official
20 capacity as the Executive Officer of the Veterinary Medical Board, Department of Consumer
21 Affairs.

22 2. On August 8, 1980, the Board issued Veterinarian License Number VET 7368 to
23 Respondent Elyse Marie Kent. The license was in full force and effect at all times relevant to the
24 charges brought herein and will expire on November 30, 2016 unless it is renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 4. Section 118, subdivision (b), states:

5 The suspension, expiration, or forfeiture by operation of law of a license issued
6 by a board in the department, or its suspension, forfeiture, or cancellation by order of
7 the board or by order of a court of law, or its surrender without the written consent of
8 the board, shall not, during any period in which it may be renewed, restored, reissued,
9 or reinstated, deprive the board of its authority to institute or continue a disciplinary
10 proceeding against the licensee upon any ground provided by law or to enter an order
11 suspending or revoking the license or otherwise taking disciplinary action against the
12 licensee on any such ground.

13 **STATUTES**

14 5. Section 490 relevantly states:

15 (a) In addition to any other action that a board is permitted to take against a
16 licensee, a board may suspend or revoke a license on the ground that the licensee has
17 been convicted of a crime, if the crime is substantially related to the qualifications,
18 functions, or duties of the business or profession for which the license was issued.

19 (b) Notwithstanding any other provision of law, a board may exercise any
20 authority to discipline a licensee for conviction of a crime that is independent of the
21 authority granted under subdivision (a) only if the crime is substantially related to the
22 qualifications, functions, or duties of the business or profession for which the
23 licensee's license was issued.

24 (c) A conviction within the meaning of this section means a plea or verdict of
25 guilty or a conviction following a plea of nolo contendere. An action that a board is
26 permitted to take following the establishment of a conviction may be taken when the
27 time for appeal has elapsed, or the judgment of conviction has been affirmed on
28 appeal, or when an order granting probation is made suspending the imposition of
sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

6. Section 4875 states:

22 The board may revoke or suspend for a certain time the license or registration of
23 any person to practice veterinary medicine or any branch thereof in this state after
24 notice and hearing for any of the causes provided in this article. In addition to its
25 authority to suspend or revoke a license or registration, the board shall have the
26 authority to assess a fine not in excess of five thousand dollars (\$5,000) against a
27 licensee or registrant for any of the causes specified in Section 4883. A fine may be
28 assessed in lieu of or in addition to a suspension or revocation. The proceedings under
this article shall be conducted in accordance with Chapter 5 (commencing with Section
11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall
have all the powers granted therein. Notwithstanding the provisions of Section 4903,
all fines collected pursuant to this section shall be deposited to the credit of the
Veterinary Medical Board Contingent Fund.

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7. Section 4883 relevantly states:

The board may deny, revoke, or suspend a license or registration or assess a fine as provided in Section 4875 for any of the following:

(a) Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, surgery, or dentistry, in which case the record of the conviction shall be conclusive evidence.

...

(g) Unprofessional conduct, that includes, but is not limited to, the following:

...

(g)(2)(A) The use of or prescribing for or administering to himself or herself, any controlled substance.

(g)(2)(B) The use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages to the extent, or in any manner as to be dangerous or injurious to a person licensed or registered under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person so licensed or registered to conduct with safety the practice authorized by the license or registration.

(g)(2)(C) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section or any combination thereof, and the record of the conviction is conclusive evidence.

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The board may order the license or registration to be suspended or revoked or assess a fine, or may decline to issue a license or registration, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under Section 1203.4, 1210.1, or 3063.1 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(g)(3) A violation of any federal statute, rule, or regulation or any of the statutes, rules, or regulations of this state regulating dangerous drugs or controlled substances.

...

(o) Violation, or the assisting or abetting violation, of any regulations adopted by the board pursuant to this chapter.

8. Section 4885 relevantly states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense related to the practice of veterinary

1 medicine or the practice of a veterinary technician is deemed to be a conviction within
2 the meaning of this article. The board may order the license or registration to be
3 suspended or revoked, or assess a fine as provided in Section 4883 or may decline to
4 issue a license or registration, when the time for appeal has elapsed, or the judgment of
5 conviction has been affirmed on appeal or when an order granting probation is made
6 suspending the imposition of sentence, irrespective of a subsequent order under the
7 provisions of Section 1203.4, 1210.1, or 3063.1 of the Penal Code allowing that person
8 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
9 the verdict of guilty, or dismissing the accusation, information, or indictment.

6 REGULATIONS

7 9. California Code of Regulations, title 16, section 2032.3, states in relevant part:

8 (a) Every veterinarian performing any act requiring a license pursuant to the
9 provisions of Chapter 11, Division 2, of the code, upon any animal or group of animals
10 shall prepare a legible, written or computer generated record concerning the animal or
11 animals which shall contain the following information:

11 ...

12 (6) A history or pertinent information as it pertains to each animal, herd, or
13 flock's medical status.

14 (7) Data, including that obtained by instrumentation, from the physical
15 examination.

15 ...

16 (9) Records for surgical procedures shall include a description of the procedure,
17 the name of the surgeon, the type of sedative/anesthetic agents used, their route of
18 administration, and their strength if available in more than one strength.

19 (10) Diagnosis or assessment prior to performing a treatment or procedure.

20 10. California Code of Regulations, title 16, section 2032.4, states in relevant part:

21 (a) General anesthesia is a condition caused by the administration of a drug or
22 combination of drugs sufficient to produce a state of unconsciousness or dissociation
23 and blocked response to a given pain or alarming stimulus.

24 (b) When administering general anesthesia, a veterinarian shall comply with the
25 following standards:

26 (1) Within twelve (12) hours prior to the administration of a general anesthetic,
27 the animal patient shall be given a physical examination by a licensed veterinarian
28 appropriate for the procedure. The results of the physical examination shall be
documented in the animal patient's medical records.

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1 11. California Code of Regulations, title 16, section 2040, states:

2 For the purposes of denial, suspension, or revocation of a license pursuant to
3 Division 1.5 (commencing with Section 475) of the code, a crime or act shall be
4 considered to be substantially related to the qualifications, functions or duties of a
5 person holding a license under Chapter 11 of Division 2 of the code if to a substantial
6 degree it evidences present or potential unfitness of a person holding a license to
7 perform the functions authorized by his or her license in a manner consistent with the
8 public health, safety or welfare. Such crimes or acts shall include but not be limited to
9 those involving the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting in or
abetting the violation of, or conspiring to violate any provision or term of Chapter 11,
Division 2 of the code.

(b) Conviction of a crime involving fiscal dishonesty.

10 COST RECOVERY

11 12. Section 125.3 provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licentiate found to have committed a violation of the licensing
13 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
14 case.

15 DRUG CLASSIFICATIONS

16 13. Cocaine is a narcotic drug, dangerous drug, and a Schedule II controlled substance.
17 (Health & Saf. Code, §§ 11019, subd. (e), 11055, subd. (b)(6); Bus. & Prof. Code, § 4022.)

18 STATEMENT OF FACTS

19 **A. Alcohol-Related Crimes**

20 14. On November 8, 2007, Respondent drove while under the influence of alcohol. Her
21 blood alcohol content at or near the time of the offense was 0.10 percent.

22 15. On April 9, 2008, Respondent pleaded *nolo contendere* to one misdemeanor count of
23 reckless driving involving alcohol (Veh. Code, § 23103). The court suspended imposition of
24 sentence and placed Respondent on summary probation for three years. It fined Respondent
25 \$1,038 and ordered her to complete a three-month alcohol and drug education and counseling
26 program for first-time offenders. (*People v. Elyse M. Kent* (Super. Ct. L.A. County, 2008, No.
27 7WA03814).)

28 ///

1 16. On January 14, 2013, Respondent drove while under the influence of alcohol and
2 collided into another motorist, causing minor vehicular damage. Respondent's blood alcohol
3 content at or near the time of the offense was 0.16 percent.

4 17. On February 15, 2013, Respondent pleaded *nolo contendere* to one misdemeanor
5 count of driving while under the influence of alcohol with a blood alcohol content of 0.08 percent
6 or higher (Veh. Code, § 23152, subd. (b)). The court suspended imposition of sentence and
7 placed Respondent on summary probation for five years. It fined Respondent \$2,198 and ordered
8 her to complete an 18-month alcohol and drug education and counseling program for repeat
9 offenders. (*People v. Elyse Marie Kent* (Super. Ct. L.A. County, 2013, 3WA00103).)

10 **B. Cocaine Use**

11 18. On August 23, 2013, the Board received a complaint that Respondent was abusing
12 drugs and alcohol. On May 21, 2014, Board investigators made an unannounced site inspection of
13 Respondent's veterinary practice in Marina Del Rey. Respondent agreed to speak with an
14 investigator and, during their conversation, she said that she started using cocaine in 2009 and
15 used it as recently as January 2013. At the investigator's request, Respondent submitted to a urine
16 drug screen. Respondent's sample returned positive for cocaine metabolites at a concentration of
17 300 nanograms per milliliter.

18 **C. Patient Fuego**

19 19. Fuego, a male long-haired domestic cat, was a patient of Respondent's from
20 approximately April 15, 2010 until March 2, 2015.

21 20. On or about May 29, 2014, Respondent performed a physical examination of Fuego
22 but did not record her examination findings.

23 21. On or about February 20, 2015, Fuego presented to Respondent for teeth cleaning.
24 Laboratory tests were performed and a urinary tract infection was noted. Respondent
25 anesthetized Fuego, cleaned his teeth and extracted two teeth. Respondent made errors and
26 omissions in the treatment she provided and how she documented it, as more particularly stated in
27 paragraphs 22–25.

28 ///

- 1 22. Respondent failed to collect an adequate medical history.
- 2 23. Respondent failed to record a description of the tooth extraction procedure.
- 3 24. Respondent failed to record a diagnosis or assessment of general oral status and a
- 4 diagnosis for each tooth that required extraction.
- 5 25. Respondent failed to perform a physical exam before administering general
- 6 anesthesia on Fuego.

FIRST CAUSE FOR DISCIPLINE
(Violation of Board Regulations)

- 9 26. Respondent is subject to disciplinary action under section 4883, subdivision (o),
- 10 because she violated regulations adopted by the Board, as follows:
- 11 27. California Code of Regulations, title 16, section 2032.3, subdivision (a)(6), requires
- 12 veterinarians to prepare a legible written or computer-generated record of treatment, which must
- 13 include an animal's history or pertinent information as it pertains to his medical status.
- 14 Respondent violated this regulation by failing to document an adequate medical history for Fuego
- 15 on or about February 20, 2015.
- 16 28. California Code of Regulations, title 16, section 2032.3, subdivision (a)(7), requires
- 17 veterinarians to prepare a legible written or computer-generated record of treatment, which must
- 18 include data obtained from any physical examination, including that which is obtained by
- 19 instrumentation. Respondent violated this regulation by failing to record findings from a physical
- 20 examination that she performed on Fuego on or about May 29, 2014.
- 21 29. California Code of Regulations, title 16, section 2032.3, subdivision (a)(9), requires
- 22 veterinarians to prepare a legible written or computer-generated record of treatment, which must
- 23 include a description of the procedure for all surgical procedures. Respondent violated this
- 24 regulation by failing to record an adequate description of the tooth-extraction procedure that she
- 25 performed on Fuego on or about February 20, 2015.
- 26 30. California Code of Regulations, title 16, section 2032.3, subdivision (10), requires
- 27 veterinarians to prepare a legible written or computer-generated record of treatment, which must
- 28 include a diagnosis or assessment prior to performing any treatment or procedure. Respondent

1 violated this regulation by failing to record on or about February 20, 2015 a diagnosis or
2 assessment of Fuego's general oral status and also a diagnosis for each tooth requiring extraction.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Conviction of a Substantially Related Crime)**

5 31. Respondent is subject to disciplinary action under sections 490 and 4883, subdivision
6 (a), and 4885, in conjunction with California Code of Regulations, title 16, section 2040, because
7 she was convicted of a crime that is substantially related to the qualifications, functions and
8 duties of a veterinarian. Complainant realleges paragraphs 13–17.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Illegal Use of a Controlled Substance)**

11 32. Respondent is subject to disciplinary action under section 4883, subdivision
12 (g)(2)(A), in conjunction with California Code of Regulations, title 16, section 2040, for
13 unprofessional conduct in that Respondent illegally used and self-administered a controlled
14 substance, to wit cocaine. Complainant realleges paragraphs 13 and 18.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Dangerous Use of Drugs and Alcohol)**

17 33. Respondent is subject to disciplinary action under section 4883, subdivision
18 (g)(2)(B), in conjunction with California Code of Regulations, title 16, section 2040, for
19 unprofessional conduct in that Respondent used dangerous drugs and alcoholic beverages to an
20 extent or in a manner as to be dangerous or injurious to herself and others. Complainant realleges
21 paragraphs 13–18.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Multiple Convictions Involving Alcohol)**

24 34. Respondent is subject to disciplinary action under sections 4883, subdivision
25 (g)(2)(C), and 4885, in conjunction with California Code of Regulations, title 16, section 2040,
26 for unprofessional conduct in that Respondent was convicted of more than one misdemeanor
27 involving the use, consumption, or self-administration of alcohol. Complainant realleges
28 paragraphs 13–17.

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Violation of State Drug Laws)**

3 35. Respondent is subject to disciplinary action under section 4883, subdivision (g)(3),
4 for unprofessional conduct in that Respondent violated state laws regulating dangerous drugs and
5 controlled substances.

6 36. Respondent violated Health and Safety Code section 11350, which makes it a crime
7 for a person to possess cocaine. Complainant realleges paragraphs 13 and 18.

8 37. Respondent violated Business and Professions Code section 4060, which prohibits
9 the possession of a controlled substance except upon a valid prescription. Complainant realleges
10 paragraphs 13 and 18.

11 38. Respondent violated Health and Safety Code section 11550, which prohibits the use
12 of certain controlled substances, including cocaine, except when administered by or under the
13 direction of a person licensed by the state to dispense, prescribe or administer controlled
14 substances. Complainant realleges paragraphs 13 and 18.

15 **SEVENTH CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct)**

17 39. Respondent is subject to disciplinary action under section 4883, subdivision (g), for
18 unprofessional conduct. Complainant realleges paragraphs 13–38.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Veterinarian License No. VET 7368, issued to Elyse Marie Kent;
2. Ordering Elyse Marie Kent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3;
3. Assessing a fine against Elyse Marie Kent not in excess of \$5,000 for the causes specified in section 4883; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: 9/30/16

Annemarie Del Mugnaio
by Candace Raney

ANNEMARIE DEL MUGNAIO
Executive Officer
Veterinary Medical Board
Department of Consumer Affairs
State of California
Complainant

LA2014512352