

In the Matter of the Petition for Modification of Penalty of
DALE CHRISTOPHER COTTON

VETERINARY MEDICAL BOARD OF CALIFORNIA
Case No: BV 2015 37

Attorney General's Exhibits

ATTORNEY GENERAL'S EXHIBIT NO.	DOCUMENT	MARKED	ADMIT
1	Hearing Notice to Petitioner		
2	Certification of License History		
3	Probation Compliance Report		
4	Petition for Modification of Penalty and Attachments in Support		
5	Stipulated Settlement & Disciplinary Order; First Amended Accusation		

EXHIBIT 1



September 17, 2020

Dale C. Cotton, DVM
12655 Antigua Court
Lynwood, CA 90262-5371

**RE: HEARING NOTICE
OAH Case No. TBD
Petition for Termination of Probation – Dale C. Cotton, DVM**

Dear Dr. Cotton:

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: October 23, 2020

Time: 11:00 am.

Location (Videoconference link): <https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=ed8fde1e9a7f12785e96805a913ec1e62>

Event number: 146 301 7767
Event password: VMB10232020

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 or (916)-318-6571.

Sincerely,

Virginia Gerard

Virginia Gerard
Probation Monitor

cc: Karen Denvir, Supervising Deputy Attorney General
Office of Administrative Hearings



DECLARATION OF SERVICE BY CERTIFIED MAIL

RE: Dale C. Cotton, DVM

LICENSE NO: VET 14009

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:

Dale C. Cotton, DVM
 12655 Antigua Court
 Lynwood, CA 90262-5371

7019 2280 0001 8361 5508

Dale C. Cotton, DVM
 12655 Antigua Court
 Lynwood, CA 90262-5371

Said envelope was then, September 17, 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 September 17, 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

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

7019 2280 0001 8361 5508

Certified Mail Fee	\$	
Extra Services & Fees (check box, add fee as appropriate)		
<input type="checkbox"/> Return Receipt (hardcopy)	\$	
<input type="checkbox"/> Return Receipt (electronic)	\$	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$	
<input type="checkbox"/> Adult Signature Required	\$	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$	
Postage	\$	
Total Postage and Fees	\$	
Sent To	Dale C. Cotton, DVM	
Street and Apt. No., or PO Box	12655 Antigua Court	
City, State, ZIP+4®	Lynwood, CA 90262-5371	

Postmark Here

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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 Dale C. Cotton. 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:

Address of Record:

Dale C. Cotton, DVM
12655 Antigua Court
Lynwood, CA 90262-5371

VET No. 14009:

Issued: June 6, 2000
Expiration: March 31, 2021
Status: Current
Secondary Status: Probation

Discipline:

April 12, 2018 A Stipulated Settlement and Disciplinary Order adopted by the Board became effective in the matter of the First Amended Accusation filed on May 24, 2017, in case number BV 2015 37. Dr. Cotton was placed on probation for four years with terms and conditions.

Given under my hand at Sacramento, California, this 21st day of September, 2020.

Robert Stephanopoulos, Enforcement Manager

EXHIBIT 3



PETITION FOR MODIFICATION OF PENALTY PROBATION COMPLIANCE STATUS REPORT

PETITIONER: Dale C. Cotton, DVM, VET 14009

TYPE OF PETITION: Termination of Probation

CASE NUMBER: BV 2015 37

CONDITIONS AND STATUS:

- Obey All Laws** : In compliance.
- Quarterly Reports & Interviews** : In compliance.
- Cooperation w/ Probation Surveillance** : \$2,800 due by time of this report; \$2,400 received. If paid by check, may be pending processing by Board.
- No Preceptorships** : In compliance.
- Notice to Employers** : In compliance. Received from *Lynwood Dog and Cat Hospital* on April 16, 2018.
- Notice to Employees** : In compliance. Received from *Lynwood Dog and Cat Hospital* on April 16, 2018.
- Cost Recovery** : Amount in Decision is \$10,210.20. \$7,941.08 due by time of this report. \$6,796.64 received. If paid by check, may be pending processing by Board. \$3,413.36 owed by April 14, 2021 (within first three years), per Decision.
- Suspension Individual License** : In compliance.
- Limitations on Practice** : In compliance.
- Supervised Practice** : In compliance. Dr. Emanuel Grain approved May 22, 2018. Dr. Brittany Neal approved August 9, 2019. Currently Dr. Douglas Hardy, approved September 6, 2019.
- No Ownership** : In compliance.
- No Management or Admin** : In compliance. Not MGL of any premises.
- Continuing Education** : Decision calls for 30 CE hours per year in each subject as follows: record keeping, 10 hours; pharmacology of antibiotics, 5 hours; use/misuse of antibiotics, 5 hours; anesthesia protocols, including injectables, 5 hours; diagnosis and treatment of otitis

externa, 5 hours. We received proof of completion for 10 CE hours in record keeping for 2018 [on September 11, 2020, I telephoned medical record keeping.com (as Dr. Cotton submitted a nomination form for approval for the course) and was able to verbally verify Dr. Cotton completed these hours, as no certificate was received by our office.]. We also received a "Record of Participation in 2019 Fetch DVM 360." This indicated 24 presentation hours were attended with asterisks near four hours in the topic of Pharmacology, one in dermatology, and four in Anesthesia. The conference dates were December 12-15, 2019. No other certificates were received. Not in compliance.

Clinical or Written Examination : Received letter dated June 26, 2018 from ICVA indicating Dr. Cotton passed exam taken on June 20, 2018.

Restitution : In compliance. Completed June 4, 2018: \$1,000 paid to A.O. and J.M.O.; and \$1,500 to J.L. and V.C.

Ethics Training : Not in compliance. 24 hours to be completed in first year (by April 14, 2019), no certificates of completion have been received.

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

Submitted by: Virginia Gerard **Date** 9/23/20
Probation Monitor

EXHIBIT 4



BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
DEPARTMENT OF CONSUMER AFFAIRS • VETERINARY MEDICAL BOARD
1747 North Market Blvd., Suite 230, Sacramento, CA 95834-2978
P (916) 515-5220 | Toll-Free (866) 229-0170 | www.vmb.ca.gov



PETITION FOR REINSTATEMENT OR MODIFICATION OF PENALTY

INSTRUCTIONS: Please type or print neatly. All blanks must be completed; if not applicable enter N/A. If more space is needed attach additional sheets. Attached to this application should be a "Narrative Statement" and two original verified recommendations from a veterinarian licensed by the Board who has personal knowledge of activities since the disciplinary action was imposed."

TYPE OF PETITION [Reference Business and Professions Code section 4887]

Reinstatement of Revoked/Surrendered License or Registration Modification of Probation Termination of Probation

NOTE: A Petition for Modification and/or Termination of Probation can be filed together. If you are requesting Modification, you must specify in your "Narrative Statement" the term(s) and condition(s) of your probation that you want reduced or modified and provide an explanation. Please check all boxes above that apply.

PERSONAL INFORMATION

NAME: First Middle Last
DALE Christopher COTTON

Other name(s) licensed under, if any:
N/A

HOME ADDRESS: Number & Street City State Zip
[Redacted]

HOME TELEPHONE NUMBER WORK TELEPHONE NUMBER CELL NUMBER
[Redacted] (323) 566-4177 () Same as home
CA License or Registration Number
14009

Are you licensed by any other state(s) or country(ies) (please include license number(s), issue date(s), and status of license(s)):
N/A

ATTORNEY INFORMATION (If Applicable)

Will you be represented by an attorney? No Yes (If "Yes," please provide the following information)

NAME: N/A

ADDRESS:

PHONE:

DISCIPLINARY INFORMATION

Provide a brief explanation in your "Narrative Statement" as to the cause for the disciplinary action (e.g., negligence or incompetence, self use of drugs or alcohol, extreme departures from sanitary conditions, conviction of a crime, etc.)

Have you ever had your license revoked, suspended, voluntarily surrendered, denied, or placed on probation in any other state or country? No Yes
(If Yes, give a brief cause for administrative action or license denial in your "Narrative Statement" section, including dates and discipline ordered (e.g., 5 years probation.)

VETERINARIAN/REGISTERED TECHNICIAN BACKGROUND

Total number of years in veterinary practice: 24 Years

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

- ① Veterinary record keeping (Pt. 1 + 2), Vet Med Consulting, Com
- ② 2018 Fetch Lum 360 Conference (San Diego)
- ③ Vet Med team (medical records)
- ④ 2019 Fetch Lum 360 Veterinary Conference (San Diego)
- ⑤ Vet med team (Anesthesia/Pain management course)

CURRENT OCCUPATION OTHER THAN VETERINARIAN OR REGISTERED VET TECHNICIAN

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

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:

Casillas Veterinary Hospitals 10,300 Long Beach Blvd
(323) 566-4177 Veterinarian 8/10 to Present

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.

- ① Veterinary record keeping courses (Pt. 1 + Pt. 2) - Completed in 2018
- ② Veterinary record keeping course - Completed in 2019
- ③ Vet med team (Anesthesia/Pain management course -
 Current waiting completion certificate (taken 6/2020)

CURRENT COMPLIANCE

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

- 1. Been placed on criminal probation or parole? Yes No
- 2. Been charged in any pending criminal action by any state, local or federal agency or court? Yes No
- 3. Been convicted of any criminal offense? (A conviction includes a no contest plea; disregard traffic offenses with a \$100 fine or less.) Yes No
- 4. Been charged or disciplined by any other veterinary board? Yes No
- 5. Surrendered your license to any other veterinary board? Yes No
- 6. Had your licensee manager's premise permit disciplined? Yes No
- 7. Had any civil malpractice claims filed against you of \$10,000 or more? Yes No
- 8. Become addicted to the use of narcotics or controlled substances? Yes No
- 9. Become addicted to or received treatment for the use of alcohol? Yes No
- 10. Been hospitalized for alcohol or drug problems or for mental illness? Yes 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? \$3,413.36

When is payment anticipated? Monthly

DECLARATION

Executed on 9-16 2020 at Carson Ca.
(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.

DALE Cotton
Petitioner (print name)

Dale Cotton
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.

Douglas Hardy, DVM

[REDACTED]

[REDACTED]

[REDACTED]

RECEIVED

JUN 29 2020

VMB/RVTC

5/5/2020

To Whom It Concerns:

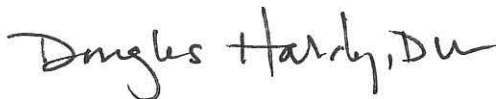
I began monthly review of Dr. Dale Cotton's medical records in September 2019. A Supervisor's Report was submitted to a representative of the California Medical Board for each of the 8 months reviewed. Each review was conducted with reference to the California Veterinary Medical Practice Act (CCR 2032.3).

I have found Dr. Cotton's medical records to be in accordance and consistent with the requirements listed in CCR 203.3. Dr. Cotton's records have been initialed indicating the doctor responsible for the entry. The client's name, address and phone number are present. The patient's name, age, breed, species, and color are on each record. The records begin with a presenting complaint or reason for visit along with a brief history. The pertinent physical exam findings followed by a tentative diagnosis or diagnosis and initial treatment plan. All medications used for treatment either dispensed or prescribed are listed with strength,, dosage, quantity and frequencies are recorded.

In summary, it is my opinion that Dr. Cotton's medical records presented for review over the past have been consistently met the requirements of the California Veterinary Practice Act (CCR 2032.3) and therefore I support review for possible modification of penalty for Dr. Dale Cotton (BV-2015-37).

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

Sincerely,



Douglas Hardy, DVM

EVENING PET CLINIC

E. Grain, Jr., D.V.M.

May 5, 2020

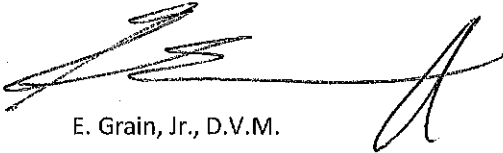
I was the supervising veterinarian for the first year of Dr. Dale Cotton's probation from June 1, 2018 until June 30, 2019. We met almost every month to review cases and procedures. I found Dr. Cotton to be a skilled practitioner. He was very cooperative and eager to improve his practice methods.

After reading his stipulation and causes of action, I personally felt that one of his deficiencies was a lack of staff communication and accountability. No matter how skilled the practitioner, he or she cannot rise above the level of the supporting staff. During the first 2 months, Dr. Cotton instituted procedures and methods that helped his staff better support him. He organized a white board in the treatment area where it was easily assessible to every team member. The white board was used to track the progress of each animal under his care. The progress was noted and each team member, from the office manager to the kennel person had to account for their duties.

We worked on improving his record keeping. He greatly improved over the year so that his records more closely followed the S.O.A.P. system. Using this system helps the practitioner approach cases and analysis the data in a more evidence-based way. As we progressed through the year and discussed cases or when I would review records, I could see improvement in his critical thinking in cases.

I was skeptical about taking on this task when asked. I did not want to be stuck with someone for a year that just wanted to go through the motions. Dr. Cotton quieted my fears quickly. After only a few meetings, I knew Dr. Cotton was one who had the passion for veterinary medicine. Dr. Cotton wants what all good veterinarians should want, that is to keep improving their skill set. I am confident that if Dr. Cotton's penalty is reduced, he will be able and willing to practice within the standards demanded by the Veterinary Medical Board.

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



E. Grain, Jr., D.V.M.

Lic # 6551

6803 Cherry Ave.
Long Beach, CA 90805
Fax: 562-422-0014

Phone: 562-422-1223
eveningpetclinic@hotmail.com
Website: eveningpetclinic.com

4-7-20

NARRATIVE STATEMENT FOR THE PETITION TO THE CALIFORNIA VETERINARY MEDICAL BOARD FOR
MODIFICATION OF PENALTY

To: California Veterinary Medical Board,

4-12- 2020 marks the second year of my four year probationary period. My probation was caused by the violation of the standards of the California Veterinary Practice Act and involved two cases. The violations that I committed involved: 1. Record keeping 2. Performing proper otic examination and treatment 3. Use of Antimicrobials 4. Proper use of Anesthesia 5. Pharmacology of Antibiotics.

I'm requesting a reduction in duration of my probation period along with a reduction in the amount of fines that I owe. I've completed the requested stipulations of my probation in a timely manner. I complete an additional 30 CE units per year along with the 18 CE per year required for relicensing during my probationary period. With the extra CE ours that I have obtained, particularly in the area of record keeping, I have improved on my deficiencies and are keeping more thorough medical records.

The following is documentation of the different conferences and CE units that I've completed:

1. Record keeping seminar 10 CE Dr. Khare
2. Fetch 360 conference 2018
3. Record keeping seminar (see certificate in documents)
4. Fetch 360 conference 2019
5. Reading articles in Veterinary journals involving areas of violation.

EXHIBIT 5

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

In the Matter of the Accusation Against:

DALE COTTON, DVM
12655 Antigua Court
Lynwood, CA 90262

Veterinary License No. VET 14009

Respondent.

Case No. BV 2015 37

OAH No. 2017070425

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Veterinary Medical Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on APR 12 2018.

It is so ORDERED MAR 13 2018.


FOR THE VETERINARY MEDICAL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 STEPHEN D. SVETICH
Deputy Attorney General
4 State Bar No. 272370
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6306
6 Facsimile: (213) 897-2804
E-mail: Stephen.Svetich@doj.ca.gov
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 **DALE COTTON, DVM**
12655 Antigua Court
14 Lynwood, CA 90262

15 **Veterinary License No. VET 14009**

16 Respondent.

Case No. BV 2015 37

OAH No. 2017070425

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Veterinary Medical Board of the Department of Consumer
20 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
21 which will be submitted to the Board for approval and adoption as the final disposition of the
22 First Amended Accusation.

23 **PARTIES**

24 1. Annemarie Del Mugnaio ("Complainant") is the Executive Officer of the Veterinary
25 Medical Board ("Board"). She brought this action solely in her official capacity and is
26 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
27 Stephen D. Svetich, Deputy Attorney General.

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in First
3 Amended Accusation No. BV 2015 37.

4 9. Respondent agrees that his Veterinary License is subject to discipline and he agrees to
5 be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

6 CONTINGENCY

7 10. This stipulation shall be subject to approval by the Veterinary Medical Board.
8 Respondent understands and agrees that counsel for Complainant and the staff of the Veterinary
9 Medical Board may communicate directly with the Board regarding this stipulation and
10 settlement, without notice to or participation by Respondent or his counsel. By signing the
11 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
12 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
13 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
14 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
15 action between the parties, and the Board shall not be disqualified from further action by having
16 considered this matter.

17 11. The parties understand and agree that Portable Document Format ("PDF") and
18 facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and
19 facsimile signatures thereto, shall have the same force and effect as the originals.

20 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
21 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
22 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
23 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
24 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
25 writing executed by an authorized representative of each of the parties.

26 13. In consideration of the foregoing admissions and stipulations, the parties agree that
27 the Board may, without further notice or formal proceeding, issue and enter the following
28 Disciplinary Order:

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Veterinary License No. VET 14009 issued to Respondent
3 Dale Cotton, DVM is revoked. However, the revocation is stayed and Respondent is placed on
4 probation for four (4) years on the following terms and conditions.

5 **1. Obey All Laws**

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

10 **2. Quarterly Reports and Interviews**

11 Respondent shall report quarterly to the Board or its designee, under penalty of perjury, on
12 forms provided by the Board, stating whether there has been compliance with all terms and
13 conditions of probation. In addition, the Board at its discretion may request additional in-person
14 reports of the probationary terms and conditions. If the final written quarterly report is not made
15 as directed, the period of probation shall be extended until such time as the final report is received
16 by the Board. Respondent shall make available all patient records, hospital records, books, logs,
17 and other documents to the Board, upon request.

18 **3. Cooperation with Probation Surveillance**

19 Respondent shall comply with the Board's probation surveillance program. All costs for
20 probation monitoring shall be borne by Respondent. Probation monitoring costs are set at a rate of
21 \$100 per month for the duration of the probation. Respondent shall notify the Board of any
22 change of name or address or address of record within thirty (30) days of the change. Respondent
23 shall notify the Board immediately in writing if Respondent leaves California to reside or practice
24 in another state. Respondent shall notify the Board immediately upon return to California.

25 **4. No Preceptorships or Supervision of Interns**

26 Respondent shall not supervise a registered intern and shall not perform any of the duties of
27 a preceptor.

28 \\\

1 **5. Notice to Employers**

2 Respondent shall notify all present and prospective employers of the decision in this case
3 and the terms, conditions, and restrictions imposed on Respondent by the decision in this case.
4 Within thirty (30) days of the effective date of this decision and within fifteen (15) days of
5 Respondent undertaking new employment, Respondent shall cause his employer to report to the
6 Board in writing, acknowledging the employer has read the First Amended Accusation and
7 decision in this case and understands Respondent's terms and conditions of probation. Relief
8 veterinarians shall notify employers immediately.

9 **6. Notice to Employees**

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

17 **7. Tolling of Probation**

18 If Respondent resides out of state upon or after effective date of the decision, he must
19 comply with the following conditions only: Obey all laws, quarterly reports and interviews,
20 tolling of probation, continuing education and cost recovery. If Respondent returns to California
21 he must comply or be subject to all probationary conditions for the period of probation.

22 Respondent, during probation, shall engage in the practice of veterinary medicine in
23 California for a minimum of 24 hours per week or as determined by the Board. Should
24 Respondent fail to engage in the practice of veterinary medicine in California as set forth above,
25 the time outside of the practice shall not apply to reduction of the probationary terms.

26 **8. Violation of Probation**

27 If Respondent violates probation in any respect, the Board, after giving Respondent notice
28 and the opportunity to be heard, may revoke probation and carry out the disciplinary order that

1 was stayed. If an accusation or petition to revoke probation is filed against Respondent during
2 probation, or if the Attorney General's office has been requested to prepare any disciplinary
3 action against Respondent's license, the Board shall have continuing jurisdiction until the matter
4 is final, and the period of probation shall be extended until the matter is final.

5 **9. Completion of Probation**

6 All costs for probation monitoring and/or mandatory premises inspections shall be borne by
7 Respondent. Failure to pay all costs due shall result in an extension of probation until the matter
8 is resolved and costs paid. Upon successful completion of probation and all payment of all fees
9 due, Respondent's license will be fully restored.

10 **10. Cost Recovery and Payment of Fines**

11 Pursuant to Section 125.3 of the California Business and Professions Code, Respondent
12 shall pay to the Board its enforcement costs including investigation, hearing, and prosecution in
13 the amount of \$10,210.00, and the Respondent shall make these payments as follows: Thirty-five
14 (35) monthly payments of \$283.61, followed by one (1) monthly payment of \$283.65. All
15 payments must be completed within three years of the effective date of the Decision.

16 **11. Suspension – Individual License**

17 As part of probation, Respondent is suspended from the practice of veterinary medicine for
18 fifteen (15) days, beginning the effective date of this decision. During said suspension,
19 Respondent shall not enter any veterinary hospital which is registered by the Board. Additionally,
20 Respondent shall not manage, administer, or be a consultant to any veterinary hospital or
21 veterinarian during the period of actual suspension and shall not engage in any veterinary-related
22 service or activity.

23 **12. Posted Notice of Suspension**

24 If suspension is ordered, Respondent shall post a notice of the Board's Order of Suspension,
25 in a place clearly visible to the public. The notice, provided by the Board, shall remain posted
26 during the entire period of actual suspension.

27 **13. Limitation on Practice/Inspections**

28 During probation, Respondent is prohibited from practicing veterinary medicine from a

1 location or mobile veterinary practice which does not have a current premises permit issued by
2 the Board.

3 **14. Supervised Practice**

4 Respondent shall practice only under the supervision of a veterinarian approved by the
5 Board. The supervision directed may be continuous supervision, substantial supervision, partial
6 supervision, or supervision by daily review, as deemed necessary by the Board. All costs involved
7 with practice supervision shall be borne by Respondent.

8 Each supervisor shall have been licensed in California for at least five (5) years and not
9 have ever been subject to any disciplinary action by the Board. The supervisor shall be
10 independent, with no prior business or personal relationship with Respondent and the supervisor
11 shall not be in a familial relationship with or be an employee, partner, or associate of Respondent.

12 Within thirty (30) days of the effective date of the decision, Respondent shall have his
13 supervisor submit a report to the Board in writing stating the supervisor has read the decision in
14 case number BV 2015 37. Should Respondent change employment, Respondent shall have his
15 new supervisor, within fifteen (15) days after employment commences, submit a report to the
16 Board in writing stating the supervisor has read the decision in case number BV 2015 37.

17 Respondent's supervisor shall, on a basis to be determined by the Board, review and
18 evaluate all or a designated portion of patient records of those patients for whom Respondent
19 provides treatment or consultation during the period of supervised practice. The supervisor shall
20 review these records to assess 1) the medical necessity and appropriateness of Respondent's
21 treatment; 2) Respondent's compliance with community standards of practice in the diagnosis and
22 treatment of animal patients; 3) Respondent's maintenance of necessary and appropriate
23 treatment; 4) Respondent's maintenance of necessary and appropriate records and chart entries;
24 and 5) Respondent's compliance with existing statutes and regulations governing the practice of
25 veterinary medicine.

26 Respondent's supervisor shall file monthly reports with the Board. These reports shall be in
27 a form designated by the Board and shall include a narrative section where the supervisor
28 provides his or her conclusions and opinions concerning the issues described above and the basis

1 for his or her conclusions and opinions. Additionally, the supervisor shall maintain and submit
2 with his or her monthly reports a log designating the patient charts reviewed, the date(s) of
3 service reviewed, and the date upon which the review occurred. If the supervisor terminates or is
4 otherwise no longer available, Respondent shall not practice until a new supervisor has been
5 approved by the Board.

6 If Respondent is an employee rather a veterinary hospital owner, the supervisor shall
7 additionally notify the Board of the dates and locations of all employment of Respondent, during
8 each month covered by his/her report.

9 **15. No Ownership**

10 Respondent shall not have any legal or beneficial interest in any business, firm, partnership,
11 or corporation currently or hereinafter licensed or registered by the Board and shall not own any
12 veterinary hospital.

13 **16. No Management or Administration**

14 Respondent shall not manage or be the administrator of any veterinary hospital.

15 **17. Continuing Education**

16 Within sixty (60) days of the effective date of this decision, and on an annual basis
17 thereafter, Respondent shall submit to the Board for its prior approval, an educational program or
18 course related to Respondent's specific area(s) of weakness which shall not be less than thirty (30)
19 hours per year, for each year of probation. Specifically, Respondent will be required to complete
20 continuing education in the following areas: record keeping (10 hours per year); pharmacology
21 of antibiotics (5 hours per year); use/misuse of antibiotics in general practice (5 hours per year);
22 anesthesia protocols, including injectable anesthesia (5 hours per year); diagnosis and treatment
23 of otitis externa (5 hours per year). Upon successful completion of the course(s), Respondent
24 shall provide proof to the Board. This program shall be in addition to the Continuing Education
25 required of all licensees. All costs shall be borne by Respondent.

26 **18. Clinical or Written Examination**

27 Within sixty (60) days of the effective date of this decision, Respondent shall take and pass
28 species specific practice (written) examination to be administered by the Board or its designee. If

1 Respondent fails this examination, Respondent must wait three (3) months between
2 reexaminations, except that after three (3) failures, Respondent must wait one (1) year to take
3 each necessary reexamination thereafter. All costs shall be borne by Respondent. If Respondent
4 fails to take and pass this examination by the end of the first year of probation, Respondent shall
5 cease the practice of veterinary medicine until this examination has been successfully passed and
6 Respondent has been so notified by the Board in writing.

7 **19. Restitution**

8 Respondent shall make restitution to A. O. and J. M. O. in the amount of \$1,000.00.
9 Respondent shall make restitution to J. L. and V. O. in the amount of \$1,500.00. Proof of
10 compliance with this term shall be submitted to the Board within sixty (60) days of the effective
11 date of this decision. Respondent will be given credit for any evidence of payment already made
12 to these individuals, including any possible insurance or settlement payouts.

13 **20. Ethics Training**

14 Respondent shall submit to the Board for its prior approval, an ethics training course for a
15 minimum of 24 hours during the first year of the probationary period. Upon successful
16 completion of the course, Respondent shall provide proof to the Board. All costs shall be borne
17 by Respondent.

18 **21. License Surrender While on Probation/Suspension**

19 Following the effective date of this Decision, should Respondent cease to practice
20 veterinary medicine due to retirement or health issues, or be otherwise unable to satisfy the terms
21 and conditions of probation, Respondent may tender his license to practice veterinary medicine to
22 the Board for surrender. The Board or its designee has the discretion to grant the request for
23 surrender or to take any other action it deems appropriate and reasonable. Upon formal
24 acceptance of the license surrender, Respondent will no longer be subject to the terms and
25 conditions of probation. The surrender constitutes a record of discipline and shall become a part
26 of the Respondent's license history with the Board. Respondent must relinquish his license to the
27 Board within ten (10) days of receiving notification from the Board that the surrender has been
28 accepted.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have discussed it with my attorney, George M. Wallace. I understand the stipulation and the effect will have on my Veterinary License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of Veterinary Medical Board.

DATED: 1/19/18 *Dale Cotton*
DALE COTTON, DVM
Respondent

I have read and fully discussed with Respondent Dale Cotton, DVM the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____
GEORGE M. WALLACE
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Veterinary Medical Board.

Dated: _____ Respectfully submitted,
XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General

1 ACCEPTANCE


2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, George M. Wallace. I understand the stipulation and the effect it
4 will have on my Veterinary License. I enter into this Stipulated Settlement and Disciplinary Order
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
6 Veterinary Medical Board.

7
8 DATED: _____

9 DALE COTTON, DVM
Respondent

10 I have read and fully discussed with Respondent Dale Cotton, DVM the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: January 19, 2018

14 
15 _____
16 GEORGE M. WALLACE
Attorney for Respondent

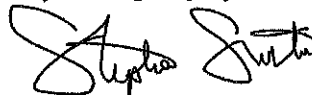
16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Veterinary Medical Board.

19 Dated: January 18, 2018

20 Respectfully submitted,

21 XAVIER BECERRA
22 Attorney General of California
23 LINDA L. SUN
24 Supervising Deputy Attorney General

25 

26 STEPHEN D. SVETICH
27 Deputy Attorney General
28 *Attorneys for Complainant*

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Exhibit A

First Amended Accusation No. BV 2015 37

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 STEPHEN D. SVETICH
Deputy Attorney General
4 State Bar No. 272370
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2540
6 Facsimile: (213) 897-2804
E-mail: Stephen.Svetich@doj.ca.gov
7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12 **DALE COTTON, DVM**
13 **12655 Antigua Court**
Lynwood, CA 90262
14 **Veterinary License No. VET 14009**
15 Respondent.

Case No. BV 2015 37

FIRST AMENDED ACCUSATION

16
17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Annemarie Del Mugnaio ("Complainant") brings this Accusation solely in her
21 official capacity as the Executive Officer of the Veterinary Medical Board (the "Board"),
22 Department of Consumer Affairs.
23 2. On or about June 2, 2000, the Board issued Veterinary License Number VET 14009
24 to Dale Cotton, DVM ("Respondent"). The Veterinary License was in full force and effect at all
25 times relevant to the charges brought herein and will expire on March 31, 2019, unless renewed.

26 \\
27 \\
28

JURISDICTION

1
2 3. This First Amended Accusation is brought before the Board, under the authority of
3 the following laws. All section references are to the Business and Professions Code unless
4 otherwise indicated.

5 4. Section 4875 of the Code provides, in pertinent part, that the Board may revoke or
6 suspend the license of any person to practice veterinary medicine, or any branch thereof, in this
7 state for any causes provided in the Veterinary Medicine Practice Act (Bus. & Prof. Code, §
8 4800, et seq.). In addition, the Board has the authority to assess a fine not in excess of \$5,000
9 against a licensee for any of the causes specified in section 4883 of that code. Such fine may be
10 assessed in lieu of, or in addition to, a suspension or revocation.

11 5. Section 118(b) of the Code provides, in pertinent part, that the expiration of a license
12 shall not deprive a board of jurisdiction to proceed with a disciplinary action during the period
13 within which the license may be renewed, restored, reissued or reinstated. Under Business and
14 Professions Code section 4843.5, the Board may renew an expired license at any time within five
15 years after the expiration.

STATUTORY PROVISIONS

16
17 6. Section 4883 of the Code states:

18 “The board may deny, revoke, or suspend a license or assess a fine as provided in Section
19 4875 for any of the following:

20 “

21 “(c) Violation or attempting to violate, directly or indirectly, any of the provisions of this
22 chapter [the Veterinary Medicine Practice Act].

23 “

24 “(g) Unprofessional conduct

25 “(i) Fraud, deception, negligence, or incompetence in the practice of veterinary medicine.

26 “

27 “(o) Violation, or the assisting or abetting violation, of any regulations adopted by
28 the board pursuant to this chapter [the Veterinary Medicine Practice Act].”

1 “(2) The veterinarian has sufficient knowledge of the animal(s) to initiate at
2 least a general or preliminary diagnosis of the medical condition of the animal(s).

3 This means that the veterinarian has recently seen and is personally acquainted with
4 the care of the animal(s) by virtue of an examination of the animal or by medically
5 appropriate and timely visits to the premises where the animals are kept”

6 10. California Code of Regulations, title 16, section 2032.3, states:

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

16 “(8) Treatment and intended treatment plan, including medications, dosages
17 and frequency of use.

18

19 “(10) Diagnosis or tentative diagnosis at the beginning of custody of animal.

20 “(11) If relevant, a prognosis of the animal's condition.

21 “(12) All medications and treatments prescribed and dispensed, including
22 strength, dosage, quantity, and frequency. . . .”

23 11. California Code of Regulations, title 16, section 2032.4, states:

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

27 \\

28 \\

1 “(b) A veterinarian shall use appropriate and humane methods of anesthesia, analgesia and
2 sedation to minimize pain and distress during any procedures and shall comply with the following
3 standards:

4 “(1) Within twelve (12) hours prior to the administration of a general anesthetic, the
5 animal patient shall be given a physical examination by a licensed veterinarian. The results
6 of the physical examination shall be noted in the animal patient's medical records. . . .”

7 COST RECOVERY

8 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licentiate found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case, with failure of the licentiate to comply subjecting the license to not
12 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
13 may be included in a stipulated settlement.

14 TREATMENT OF LUNA

15 13. “Luna” is a female Chihuahua. Luna was approximately one year old in October
16 2011.

17 14. On or about October 1, 2011, Luna’s owners brought Luna to Huntington Park Dog
18 and Cat Hospital (“Huntington”). During that visit, Luna was diagnosed with a retained “fang,” or
19 deciduous canine tooth. The veterinarian who examined Luna determined that Luna had “two
20 fangs,” and made a notation in Luna’s medical file to “remove un cornillo tooth.”¹ Huntington
21 staff referred Luna to Lynwood Dog and Cat Hospital (“Lynwood”) for dental surgery. While at
22 Huntington, Luna’s owners made an appointment with Lynwood for October 3, 2011, for the
23 recommended dental surgery.

24 15. Both Huntington and Lynwood are under the same ownership and under the direction
25 of the same managing veterinarian. The managing veterinarian of Huntington and Lynwood is
26 the veterinarian who examined Luna at Huntington on October 1, 2011.

27 _____
28 ¹ This statement means to “remove one canine tooth.”

1 16. On or about October 3, 2011, Luna's owners took Luna to Lynwood for the dental
2 surgery. When Luna's owner arrived with Luna, Lynwood staff asked him if Luna was scheduled
3 for surgery; he replied that she was scheduled for surgery. Lynwood staff asked Luna's owner to
4 leave a deposit of \$70.00, and he left the required deposit. Lynwood staff gave Luna's owner an
5 "invoice" showing that they had received \$70.00 from him, but the invoice did not indicate what
6 type of surgery they would perform on Luna.

7 17. Respondent performed a surgery on Luna on October 3, 2011. However, Respondent
8 did not perform the dental surgery that was recommended by the veterinarian at Huntington.
9 Instead, Respondent performed an ovariohysterectomy, which is also known as a "spay"
10 procedure. During the ovariohysterectomy, Respondent discovered that Luna had already
11 undergone an ovariohysterectomy. Respondent then closed the wound and ended the procedure.

12 18. When Luna's owners picked her up, they were upset to learn that Respondent
13 performed an ovariohysterectomy since Luna had undergone an ovariohysterectomy less than a
14 year before this procedure. Respondent admitted to Luna's owners that there was a mistake, but
15 he told them it was "not considered a big deal," or words to that effect.

16 19. On or about October 5, 2011, Luna's owner attempted to obtain a copy of the medical
17 records from Lynwood, but the hospital refused to release the records to her.

18 20. On or about November 23, 2011, a co-worker of Luna's owner contacted Lynwood
19 and requested a copy of Luna's medical records. Initially, the receptionist stated that she would
20 send a copy of Luna's medical records, "only after the doctor wrote it up." On or about that same
21 day, Lynwood released a portion of Luna's medical records to the co-worker of Luna's owner.

22 21. On or about March 22, 2012, Lynwood submitted to the Board, copies of Luna's
23 medical records. The medical records² state the following information:

24 \

25 \

26
27 ² Respondent provided a typed copy of the medical records since the original, handwritten records
28 are mostly illegible.

1	"CHI	F	1 yr	BRN	LUNA
2				B/D 10-12-10	
3				#8005	NOT A SPAY
4				SPAY	120
5					70
6					50
7					CASH
8	10/3/11			pink mm, BAR, ROVH [routine ovariohysterectomy], pet	
9					
10	T=101.0°			Anesthesia → 0.4 cc 100 mg/ml Telazol I.V.	
11					
12	65#			Tx: 1.0 cc 300k I.U. [international units] DP {Dual- Pen} SQ [subcutaneous], 0.1 cc Ketofen	
13					
14					
15					
16	P=114 bpm			100 mg/ml SQ *Pet previously spayed* DC [Dale Cotton, DVM]	
17					
18	R= brpm				
19					
20	10/4/11			BAR, Ambulates, Incision intact	REFUND
21					
22	T=102.0°			RX: 1) 0.5 cc 50 mg/ml Amoxicilin po bid until done (1 oz.) 2) 5 mg/ml Tramadol 1 cc po bid until done (10 cc) DC	120.00 CASH 10/4/11"
23					
24					
25					
26					

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Negligence)

3 26. Respondent is subject to disciplinary action under section 4883, subdivision (i), of the
4 Code for negligence. Respondent used high dose IV Telazol as a sole anesthetic agent for an
5 ovariohysterectomy. The use of intravenous Telazol as a sole anesthetic for an
6 ovariohysterectomy is below practice standards. The circumstances are more particularly
7 described in paragraphs 13 through 23, above, and are hereby incorporated by reference as
8 though fully set forth.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 (Record Keeping – Illegible)

11 27. Respondent is subject to disciplinary action under section 4883, subdivision (o), in
12 that on or about October 3 and 4, 2011, Respondent failed to comply with the provisions of the
13 California Code of Regulations, title, 16, in the following material respects:

14 a. **Section 2032.3, subdivision (a)**: Respondent's entries in Luna's medical records are
15 almost wholly illegible.

16 b. **Section 2032.3, subdivision (a)(6)**: Respondent failed to document Luna's pertinent
17 medical history – including the fact that she had been spayed – in Luna's medical records.

18 c. **Section 2032.3, subdivision (a)(7)**: Respondent failed to document in Luna's
19 medical records that he conducted an adequate physical examination of Luna, including an
20 examination of Luna's teeth.

21 d. **Section 2032.3, subdivision (a)(10)**: Respondent failed to document in Luna's
22 medical records his assessment or diagnosis of Luna's condition requiring surgery.

23 e. **Section 2032.3, subdivision (a)(12)**: Respondent failed to document in Luna's
24 medical records an adequate treatment plan.

25 The circumstances are more particularly described in paragraphs 13 through 23, above, and
26 are hereby incorporated by reference as though fully set forth.

27 \\\

28 \\\

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Violation of the Veterinary Medicine Practice Act – Failed to Perform Physical Exam)**

3 28. Respondent is subject to disciplinary action under section 4883 subdivision (o) of the
4 Code and California Code of Regulations, title 16, section 2032.4 subdivision (b)(1), in that
5 Respondent failed to document and/or perform on Luna a physical examination within twelve
6 hours prior to a surgical procedure. The circumstances are more particularly described in
7 paragraphs 13 through 23, above, and are hereby incorporated by reference as though fully set
8 forth.

9 **TREATMENT OF ALEX**

10 29. "Alex" was a male French Bulldog. Alex was approximately three years old in
11 November 2016.

12 30. Alex had been a patient at Lynwood since July 15, 2014, and had a history of
13 allergies. Even though Respondent treated Alex for skin and ear problems for several years,
14 Alex's medical records do not indicate that Respondent ever performed diagnostics on Alex
15 related to these skin and allergy problems. The standard of care requires visual exam of the ear
16 canal and tympanic membrane,³ along with cytology to help determine the underlying cause of
17 the ear problems. Respondent treated Alex for "severe otitis externa,"⁴ without performing visual
18 evaluation of the ear canals and routine ear canal cytology.

19 31. On or about November 15, 2016, Alex's owners brought Alex to Lynwood for an
20 examination because Alex had been scratching his left ear and buttocks. Respondent examined
21 Alex at approximately 11:50 a.m. that morning. After Alex's owners informed Respondent of the
22 reason for the visit, Respondent recommended an ear cleaning to check for foxtail and an anal
23 gland expression. When Respondent informed Alex's owners that he would have to put Alex to
24 sleep to complete the ear procedure and that French Bulldogs had a higher risk of complications
25 from anesthesia, Alex's owners decided to do an ear flush ear cleaning that would not use

26 ³ The tympanic membrane separates the external ear canal from the middle and inner ear. If tears
27 or disruption of the tympanic membrane are found, a different treatment protocol is required to
28 avoid irritation of the middle and inner ear.

⁴ Otitis externa is a chronic inflammation of the external ear canal.

1 anesthesia. Respondent then gave Alex an multi-shot injection that included a Dura-Pen⁵
2 injection. Respondent did not inform Alex's owners that he was administering penicillin to Alex.
3 Respondent and his staff told Alex's owners they could pick Alex up later that day.

4 32. Respondent stated in his written statement that he administered an injection of Dura-
5 Pen to Alex prior to the ear flush. Although Dura-Pen was used in small animals in the past, the
6 use of benzathine penicillin is not recommended since there are better penicillins available for use
7 in small animals. In addition, oral antibiotics, especially penicillin, are not generally beneficial
8 for external ear infections in canines. Since Respondent failed to conduct any diagnostic tests on
9 Alex, there was no indication that antibiotics were needed.

10 33. Alex's owners arrived back at Lynwood at approximately 4:00 p.m. on November 15,
11 2016, to pick up Alex. At an unknown time, a veterinary technician observed that Alex was
12 recumbent in his cage, and his temperature was 109 degrees Fahrenheit. Alex had a severely
13 swollen tongue. Respondent tried to lace an endotracheal tube into Alex's trachea. While trying
14 to revive Alex, who was unresponsive with severe hyperthermia, Respondent failed to perform
15 appropriate CPR, including chest compressions and cooling treatments. Unfortunately, Alex
16 succumbed to his injuries and died.

17 34. At approximately 4:50 p.m., Respondent's staff asked Alex's owners to pay for
18 services. Then, at approximately 5:05 p.m., Respondent came out and told Alex's owners that
19 Alex had died. Respondent told Alex's owners that he believed Alex had a bad reaction to
20 penicillin, and that Alex's tongue had swelled so that Alex could not breathe. Respondent
21 indicated to Alex's owners that Alex died approximately 25 minutes before he told them about
22 Alex's death – this places Alex's death at approximately 4:40 p.m.

23 \\\

24 \\\

27 ⁵ Dura-Pen is a combination of a long acting penicillin (benzathine penicillin) and a shorter acting
28 penicillin (procaine penicillin); Dura-Pen is approved for use in beef cattle and horses.

1 35. On or about December 15, 2016, Respondent submitted to the Board, copies of
2 Alex's medical records for November 15, 2016. The medical records state the following
3 information:

4 "11-15-16 reason for visit Check ears
5 MM pint CRT<1 sec HR 120 bpm Temp 101.3 degrees F
6 Wt. 33.9#

7 Physical exam check list with areas of complaint in the skin and ear area.

8
9 Abnormal findings: subjective and objective (s/o)- pet has severe otitis externa; pet is scooting;
10 other systems appear within (sic) normal limits. ; (sic) pet dragging but inflammation in the
11 rear.

12 A: r/o 1. foreign body 2. otitis externa 3. Full anal glands

13 P: multiple injections- 3.0 cc 300,000 international units Dual (sic) Penicillin subcutaneous,
14 0.4cc 100 milligram per millimeter Ketofen subcutaneous

15
16 Anal Gland Expression- partially full (entry crossed out and initialed with DC and replaced with
17 Anal Gland Expression entry)

18 RX - Amoxicillin 250 milligram 1+1 7 14

19 Carofen 75 milligram 1 tablet per os once a day x 7 days (#7)"

20 36. On December 15, 2016, Respondent also added the following addendum to the
21 written medical records: "Addendum: 1.0 cc 0.54 mg/ml Atropine SQ was given to pet during
22 ear flush (pet was excessively salivating)."

23 37. Respondent's medical record entries for Alex are sloppy and partially illegible.
24 Respondent failed to include the correct dosages of epinephrine and dopram administered to Alex
25 after he was found unresponsive in his cage. Respondent also failed to include the solution used
26 for the ear flush.

27 38. After Lynwood staff found Alex recumbent in his cage, Respondent failed to properly
28 document Alex's condition in Alex's medical records. While Respondent documented that

1 Alex's body temperature was elevated, Respondent did not document appropriate general and
2 cardiovascular (pulse, CRT, auscultation, mucous membrane color, etc.) evaluations of Alex.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Record Keeping)**

5 39. Respondent is subject to disciplinary action under section 4883, subdivision (o), in
6 that on or about November 15, 2016, Respondent failed to comply with the provisions of the
7 California Code of Regulations, title, 16, in the following material respects:

8 a. **Section 2032.3, subdivision (a)**: Respondent's entries in Alex's medical records are
9 sloppy and partially illegible.

10 b. **Section 2032.3, subdivision (a)(7)**: Respondent failed to document in Alex's
11 medical records an appropriate cardiovascular evaluation when Alex was found recumbent in his
12 cage.

13 d. **Section 2032.3, subdivision (a)(8)**: Respondent failed to document in Alex's
14 medical records the solution used to flush Alex's ears and the correct dosages of epinephrine and
15 dopram administered to Alex.

16 The circumstances are more particularly described in paragraphs 29 through 38, above, and
17 are hereby incorporated by reference as though fully set forth.

18 **SEVENTH CAUSE FOR DISCIPLINE**

19 **(Record Keeping)**

20 40. Respondent is subject to disciplinary action under section 4855, in that on or about
21 November 15, 2016, Respondent failed to prepare medical records for Alex with the minimum
22 amount of information required by the Board. Respondent failed to document in Alex's medical
23 records an appropriate cardiovascular evaluation when Alex was found recumbent in his cage, the
24 solution used to flush Alex's ears, and the correct dosages of epinephrine and dopram
25 administered to Alex. This information was required pursuant to California Code of Regulations,
26 title 16, section 2032.3, subdivisions (a)(7)-(8).

27 The circumstances are more particularly described in paragraphs 29 through 38,
28 above, and are hereby incorporated by reference as though fully set forth.

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Negligence)**

3 41. Respondent is subject to disciplinary action under section 4883, subdivision (i), of the
4 Code for negligence in that from about July 15, 2014, to about November 15, 2016, Respondent
5 failed to perform visual evaluations of Alex's ear canals and tympanic membrane after treating
6 Alex for skin and ear infections over several years. Respondent also failed to perform diagnostic
7 cytology on Alex. The circumstances are more particularly described in paragraphs 29 through
8 38, above, and are hereby incorporated by reference as though fully set forth.

9 **NINTH CAUSE FOR DISCIPLINE**

10 **(Incompetence)**

11 42. Respondent is subject to disciplinary action under section 4883, subdivision (i), of the
12 Code for incompetence in that on or about November 15, 2016, Respondent administered an
13 injection of an inappropriate antibiotic, Dura-Pen, to Alex without indication that any antibiotic –
14 much less Dura-Pen – was needed. The circumstances are more particularly described in
15 paragraphs 29 through 38, above, and are hereby incorporated by reference as though fully set
16 forth.

17 **TENTH CAUSE FOR DISCIPLINE**

18 **(Negligence)**

19 43. Respondent is subject to disciplinary action under section 4883, subdivision (i), of the
20 Code for negligence in that on or about November 15, 2016, Respondent failed to use all
21 available methods in his attempt to revive Alex after his staff found Alex recumbent in his cage.
22 When Respondent was trying to revive Alex, who was unresponsive and hyperthermic,
23 Respondent failed to perform appropriate CPR, including chest compressions and cooling
24 treatments, on Alex. The circumstances are more particularly described in paragraphs 29 through
25 38, above, and are hereby incorporated by reference as though fully set forth.

26 \\\

27 \\\

PRAYER

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

1. Revoking or suspending Veterinary License Number VET 14009, issued to Dale Cotton, DVM;

2. Ordering Dale Cotton, DVM to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Assessing a fine against Dale Cotton, DVM not in excess of \$5,000 for any of the causes specified in Business and Professions Code section 4883; and,

4. Taking such other and further action as deemed necessary and proper.

DATED: May 24, 2017


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

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