

ALABAMA STATE BOARD OF  
VETERINARY MEDICAL EXAMINERS  
MONTGOMERY COUNTY, ALABAMA

**COPY**

ALABAMA STATE BOARD OF )  
VETERINARY MEDICAL EXAMINERS )  
INVESTIGATIVE FILE NO. )  
13-WRW-634 )  
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ADMINISTRATIVE COMPLAINT AND NOTICE OF HEARING

TO: Dr. William B. Weber, D.V. M.  
Eastwood Animal Clinic  
4678 Hwy. 78 East  
Birmingham, AL 35210

Dr. William B. Weber, D.V.M.  
c/o Alabama Spay / Neuter Clinic, Inc.  
2721 Crestwood Blvd.  
Birmingham, AL 35210

NOTICE OF RIGHTS AND HEARING

William B. Weber, DVM ("Respondent Weber") is hereby informed that an administrative hearing before an Administrative Law Judge will be conducted regarding the following complaint and charges on January 13, 2014 beginning at 8:30 a.m. and continuing day-by-day until completed, at 8 Commerce Street – Annex Auditorium, Montgomery, Alabama, 36104. The purpose of this hearing will be to determine if Respondent Weber has violated the Veterinary Practice Act and its Administrative Code based upon Respondent Weber's actions which are more fully set forth in this Complaint. Pursuant to 930-X-1-.16(3), failure to inform the Board office within twenty-one (21) days after notice is received of intent to appear at any hearing or pre-hearing conference scheduled in this notice will be deemed a waiver of the right to a hearing. Respondent Weber is hereby informed that, at this hearing, he has the right to be represented by counsel, to call and cross-examine witnesses, and to present evidence on his own

behalf. Failure to appear in a contested case after proper service of notice may result in the Administrative Law Judge proceeding with the hearing and a decision being made in the absence of the party.

If you have any questions regarding this administrative complaint, please contact Tammy Cargile, Executive Director of the Alabama State Board of Veterinary Medical Examiners, at 8 Commerce Street – Suite 910, Montgomery, Alabama 36130-5330 or 334-262-8068. Questions may also be directed to legal counsel for the Alabama State Board of Veterinary Medical Examiners, Mark G. Montiel, Sr., at 334-467-9265 or 334-356-1899.

**COMES NOW**, the Alabama State Board of Veterinary Medical Examiners (hereinafter the “ASBVME”) pursuant to the Alabama Veterinary Practice Act, Alabama Code 1975 § 34-29-60 through § 34-29-135 and the Alabama State Board of Veterinary Medical Examiners, Administrative Code, Rule 930-X-1-.01 through Rule 930-X-1-.38, by and through the Executive Director of the Alabama State Board of Veterinary Medical Examiners, Tammy S. Cargile, and brings this cause of action against the above-named Respondent, William B. Weber, D.V.M., and charges and alleges as follows:

#### **JURISDICTION AND VENUE**

1. Jurisdiction before the ASBVME is proper pursuant to Ala. Code § 34-29-69 and § 34-29-79, and pursuant to the Administrative Code of the Alabama State Board of Veterinary Medical Examiners, Administrative Code, Section 930-X-1-.15, Section 930-X-1-.16, Section 930-X-1-.20 and 930-X-1-.21.

2. Venue is proper in that all parties are residents or entities of the State of Alabama operating pursuant to licenses and premise permits issued by the ASBVME. The ASBVME maintains its office and its records in the City of Montgomery, Alabama and in Montgomery

County, Alabama, and material acts complained of herein occurred pursuant to these licenses and premise permits issued by the ASBVME.

### PARTIES

3. The Complainant, the Alabama State Board of Veterinary Medical Examiners, is a State of Alabama governmental agency charged with the responsibility and authority to carry out the purposes of the Alabama Veterinary Practice Act, Alabama Code 1975 § 34-29-60 through § 34-29-135 and its Administrative Code, Rule 930-X-1-.01 through Rule 930-X-1-.38. The ASBVME has the authority, under § 39-29-69(9) to inspect any hospitals, clinics, satellites, outpatient clinics, mobile clinics, or other places utilized for the practice of veterinary medicine.

4. The Respondent, Dr. William B. Weber, D.V.M., (hereinafter "Respondent Weber"), currently has a license to practice Veterinary Medicine in the State of Alabama issued by the ASBVME (ASBVME license number 1568), and has been issued two premise permits by the ASBVME for the operation of facilities where Respondent Weber has represented to the ASBVME that he would serve as the licensed veterinarian responsible for the management of the premises. Respondent Weber obtained premise permit control number 601, which was renewed for the operation of the veterinarian facility located at Eastwood Animal Clinic, 4678 Hwy. 78 East, Birmingham, AL 35210, and has maintained and renewed said premise permit for all years since originally issued. Respondent Weber obtained premise permit control number 0475 for the operation of the veterinarian facility located at Alabama Spay and Neuter Clinic, Inc., 2721 Crestwood Blvd., Birmingham, AL 35210, and has maintained and renewed said premise permit for all years since originally issued.

## DEFINITIONS

5. For purposes of this Complaint and all charges incorporated herein, consistent with Ala. Code 1975 § 34-29-61(19), a veterinarian is defined as a person who has received a doctor's degree in veterinary medicine from an accredited school of veterinary medicine or holds an Educational Commission for Foreign Veterinary Graduates (ECFVG) certificate issued by the American Veterinary Medical Association.

6. For purposes of this Complaint and all charges incorporated herein, consistent with Ala. Code 1975 § 34-29-61(20), a veterinarian-client-patient relationship is defined as a relationship when the veterinarian has assumed responsibility for making medical judgments regarding the health of the animal or animals and the need for medical treatment and is created by actual examination by the veterinarian of the animal.

7. For purposes of this Complaint and all charges incorporated herein, consistent with Ala. Code 1975 § 34-29-61(16), a supervising veterinarian is defined as a veterinarian who assumes responsibility for the professional care given to an animal by a person working under his or her direction.

8. For purposes of this Complaint and all charges incorporated herein, consistent with Ala. Code 1975 § 34-29-61(21), a veterinary facility is defined as any place or unit from which the practice of veterinary medicine is conducted.

9. For purposes of this Complaint and all charges incorporated herein, consistent with Ala. Code 1975 § 34-29-61(21)(d), a satellite, outpatient, or mobile small animal clinic is defined as a supportive facility owned by or associated with, or both, and has ready access to, within a reasonable distance, a full-service veterinary hospital or clinic or a central hospital providing all mandatory services and meeting all minimum standards.

10. For purposes of this Complaint and all charges incorporated herein, consistent with Ala. Code 1975 § 34-29-61(11), a license is any permit, approval, registration, or certificate of qualification issued by the board.

11. For purposes of this Complaint and all charges incorporated herein, consistent with Ala. Code 1975 § 34-29-61(6), direct supervision is accomplished when a supervising veterinarian has initially examined the animal, will at other times examine the animal, and is on the premises and is quickly and easily available.

12. For purposes of this Complaint and all charges incorporated herein, consistent with Ala. Code 1975 § 34-29-61(9), immediate supervision is accomplished when the supervising veterinarian is on the premises and in audible or visual range of the animal patient and the person treating the patient.

13. For purposes of this Complaint and all charges incorporated herein, consistent with Ala. Code 1975 § 34-29-61(10), indirect supervision is accomplished when the supervising veterinarian has examined the animal and has given written or oral instructions for the treatment of the animal while the supervising veterinarian is away from the premises.

### **FACTS**

After conducting an investigation involving alleged violations of the Alabama Veterinary Practice Act, which included an appearance by Respondent Weber involving sworn testimony to the Board (“Board”) of the Alabama State Board of Veterinary Medicine (“ASBVME”), the following facts have been asserted and form the basis of this Administrative Complaint:

14. On or about March 22, 2007, Alabama Spay/Neuter Clinic, Inc., filed Articles of Incorporation with the Probate Court of Tuscaloosa County, Alabama, forming a nonprofit corporation under the laws of the State of Alabama and to comply with Section 501c(3) of the

Internal Revenue Code of 1986, as amended. The original incorporators and the original Board of Directors of the corporation were B.L. Howard, Jr., 59 Cherokee Hills, Tuscaloosa, Alabama 35404; Mark Nelson, 9021 Park Crest Road, Birmingham, Alabama 35242; Harold Blach, Jr., 2512 Ashford Place, Birmingham, Alabama 35243; and William Mitchell, 1607 13<sup>th</sup> Street, Tuscaloosa, Alabama 35401. The ASBVME is of information and belief that none of these original incorporators are now or have ever been licensed to practice Veterinary Medicine in the State of Alabama. The original officers of the corporation were B.L. Howard, Jr., designated to serve as President and Chairman, and Mark Nelson, designated to serve as Vice President, Executive Director. The ASBVME is of information and belief that none of these original officers are now or have ever been licensed to practice Veterinary Medicine in the State of Alabama.

15. The Alabama Spay/Neuter Clinic (hereinafter "ASNC") primarily functions as a spay and neuter clinic. The ASNC employs several veterinarians, licensed veterinary technicians, and other veterinary assistants who are all subject to the Alabama Veterinary Practice Act and its Administrative Code. Ala. Code 1975 §§ 34-29-60, et. al., Rule 930-X-1-.01, et. al.

16. Because those who own the ASNC facility and equipment are not licensed to practice Veterinary Medicine in the State of Alabama, they are prohibited from obtaining a premise permit for the ASNC to operate. Thus, to accomplish its goal of obtaining a premise permit for the facility, over the course of its business, the ASNC designated several veterinarians to apply for and receive premise permits for the facility. The ASNC has referred to these individuals as the "practice owner" and/or "supervising veterinarian" of the facility. However, these veterinarians were "practice owners" or "supervising veterinarians" of the facility in name only. None owned any portion of the ASNC building or equipment used within. They did not take

their patient files with them when they decided to no longer practice at the facility. Further, they did not purchase or sell their “interest” in the ASNC or their “practice” for any monetary value. Instead, they were simply salaried veterinarians who were given a title in order to obtain a premise permit from the ASBVME for the ASNC. Thus, these appointed “supervising” veterinarians have done so in name only, and without fulfilling the duties required of them by the Veterinary Practice Act and its Administrative Code.

17. The ASNC is considered an outpatient clinic which requires, pursuant to Ala. Code 1975 § 34-29-61(21)(d), direct supervision of a licensed veterinarian to remain on the premises during the entire period of operation. However, some patients who have received surgical procedures at the ASNC have been kept at the facility overnight without any form of overnight monitoring or supervision by a licensed veterinarian.

18. The ASNC obtains many patients from out-of-town by transporting said patients to the ASNC clinic by transport vehicle. These patients are picked up in the morning from an out-of-town parking lot or other similar location and driven to the ASNC for surgery. At the end of the day, these patients are once again placed in the vehicle and returned to a central location where their owners meet to pick them up. The vehicle is driven by a non-licensed individual. This non-licensed individual distributes instructions to the owners regarding post-surgical care, and the patients are sent home. This arrangement prevents the veterinarians performing the surgeries from establishing a proper veterinary-client-patient relationship. Further, the ASNC has not obtained a permit for this transport vehicle, which has operated as an extension of the ASNC.

19. The ASNC does not have an after-hours contract with a facility in order to provide care for emergency situations arising from the procedures performed at the ASNC. Patients who

develop complications, especially those transported from out-of-town, do not have a facility at which they may seek assistance when complications arise.

20. ASNC veterinarians employ a certain technique and procedure when performing spays and neuters. This procedure is learned by the veterinarians when they are sent to veterinary training in North Carolina. This procedure greatly increases the speed in which spays or neuters are performed, thus increasing the number of potential surgeries a veterinarian may perform in a work-day. However, the procedure has more room for error than the traditional methods employed to spay and neuter animals.

21. Veterinarians working at the ASNC operate under the understanding – whether directly or indirectly – that they must perform a certain number of surgeries per day if they wish to continue to work for the facility. This number appears to be upwards of thirty (30) to forty (40) spay and neuter procedures per day, per veterinarian. Unfortunately, the combination of the procedural methods required and the daily surgical demands of the veterinarians has resulted in an unacceptable percentage of patients developing complications – some life-threatening. Sadly, because the ASNC does not have a follow-up system and many of the patients present from out of town, it is undeterminable how many more patient complications have gone unreported.

22. Patients recovering from surgery at the ASNC are not properly supervised within the facility. Multiple patients are placed on the floor of the surgery suite to recuperate resulting in improper and inadequate supervision of post-surgical recovery.

23. At some time, Respondent Weber was appointed “practice owner” of the ASNC. Respondent Weber received this appointment approximately three months after the previous “practice owner” left the facility. Shortly thereafter, Respondent Weber applied to the ASBVME for a premise permit for the ASNC. However, his representations made to the Board in the

process of obtaining this premise permit were fraudulent, and the arrangement he made with the ASNC was a complete sham. Respondent Weber does not now, nor has he ever, truly been the “practice owner” or supervising veterinarian for the ASNC. Respondent Weber owns no equipment or portion of the building at the ASNC. He does not interview or make hiring decisions regarding the veterinarians and licensed veterinary technicians that he supposedly supervises and employs. He does not oversee the surgical skill and practice of the veterinarians performing surgeries at the ASNC facility. In fact, Respondent Weber himself does not operate on ASNC patients or practice veterinary medicine at the ASNC facility. Testimony indicates that Respondent Weber never even enters the facility that he supposedly owns to inspect and/or ensure that the facility meets the standards of the Veterinary Practice Act. Instead, Respondent Weber practices veterinary medicine solely at his private clinic, located down the street from the ASNC, and acts in name only as the responsible veterinarian for the ASNC and receives a salary for this “work.” While the contract signed by Respondent Weber and the ASNC described Respondent Weber’s role as an independent contractor, the ASNC’s non-licensed staff, board members and/or officers were in fact directing the veterinary services being performed.

24. Although Respondent Weber does not work within the walls of the ASNC, he contends that he “employs” several licensed veterinarians to perform spays and neuters at the facility. However, unlike most employers, Respondent Weber does not interview or make the decision to hire these “employees.” Instead, these veterinarians are hired by non-licensed individuals at the ASNC. The ASNC then transfers funds to Respondent Weber so that he can write and sign a check – in his name – to pay his alleged “employees.” Further, these licensed veterinarians are not supervised by Respondent Weber despite his claim to be the “practice owner” and supervising veterinarian of the facility. On rare occasions, one of these alleged “employed”

veterinarians has consulted with Respondent Weber concerning specific patient issues and has sent emergency cases to Respondent Weber's private clinic. At other times, the alleged "employed" veterinarians have sent patients to Respondent Weber's private clinic for bloodwork. Respondent Weber's private clinic has charged the ASNC for these operations and/or procedures. On no occasion has Respondent Weber consulted with these licensed veterinarians within the walls of the ASNC.

25. The ASNC has, on occasion, employed licensed veterinarian technicians and other veterinary assistants to assist in spays and neuters within the facility. Under Ala. Code 1975 § 34-29-94, licensed veterinarian technicians and other veterinary assistants are subject to the Veterinary Practice Act and must be properly supervised by a licensed veterinarian when performing certain medical procedures. Although he is referred to as "practice owner" and supervising veterinarian of the ASNC, Respondent Weber does not supervise these licensed veterinary technicians for tasks that require his direct or indirect supervision. It is unclear if these individuals receive supervision from the licensed veterinarians "employed" by Respondent Weber; however, Respondent Weber does not ensure, as "practice owner" and supervising veterinarian of the ASNC, that these individuals are supervised either by himself or a licensed veterinarian.

26. Individuals in charge of the operations at the ASNC are not licensed veterinarians. The involvement of these non-licensed individuals include directly or indirectly setting daily surgery requirements for the practicing veterinarians, setting the surgical hours of the practicing veterinarians and their staffs, and directing the purchase of veterinary medicine and determining the types of suture materials, medicines, procedures, etc., that are used by the practicing

veterinarians. These actions constitute the practice of veterinary medicine by non-licensed individuals, and are proscribed by the Veterinary Practice Act.

**CHARGE 1**  
**Violation(s) of § 34-29-87**

27. The ASBVME incorporates by reference all of the above paragraphs in this Administrative Complaint.

28. The Alabama Veterinary Practice Act § 34-29-87(a) states that “[w]henver the practice of veterinary medicine is carried on by a partnership, all partners shall be either licensed or holders of temporary licenses to practice veterinary medicine in the State of Alabama.”

29. The Alabama Veterinary Practice Act § 34-39-87(b) states that “[i]t shall be unlawful for any licensed veterinarian to practice veterinary medicine as an employee of any person or other entity not engaged primarily in the practice of veterinary medicine or for any person that is the owner or owners of an active veterinary practice to be other than a veterinarian or veterinarians duly licensed in the State of Alabama.”

30. Respondent Weber has engaged in the practice of veterinary medicine with non-licensed individuals who are in fact practicing veterinary medicine. Non-licensed individuals, including the ASNC’s Executive Director, are engaged in the practice of veterinary medicine because of their control over the veterinarians practicing veterinary medicine at the ASNC. Respondent Weber’s association with these individuals is in violation of the Veterinary Practice Act.

31. Respondent Weber is unlawfully employed by a non-licensed individual that is the owner of an active veterinary practice, namely the ASNC.

32. WHEREFORE, based on the foregoing, Respondent Weber violated the Alabama Veterinary Practice Act and is therefore subject to discipline by the ASBVME and/or non-renewal pursuant to the Veterinary Practice Act.

**CHARGE 2**  
**Violation(s) of § 34-29-88**

33. The ASBVME incorporates by reference all of the above paragraphs in this Administrative Complaint.

34. The Alabama Veterinary Practice Act § 34-29-88(b) states that “[e]ach application for [a] premise permit shall set forth the names of all licensed veterinarians who shall be responsible for the management of the premises.”

35. The Alabama Veterinary Practice Act § 34-29-88(g) states that “[p]remise permits issued to satellite, outpatient, or mobile small animal clinics shall state the name of the full service veterinary facility in that locale providing emergency and after hours service. Premise permits issued to mobile large animal clinics shall state the name of the full service veterinary facility in that locale providing radiology, emergency, and after hours service. Mobile clinics operating in more than one locale, i.e. city, shall have a premise permit for each locale. If the agreement between the outpatient, satellite, mobile large animal clinic, mobile small animal clinic, and the full service veterinary clinic providing back-up service ceases, the board shall be notified immediately and a new agreement for back-up service shall be provided before the issuance of a new premise permit.”

36. Respondent Weber, on behalf of ASNC, has obtained a premise permit that fails to set forth the names of all licensed veterinarians who shall be responsible for the management of the premises.

37. Respondent Weber, acting on behalf of the ASNC, has failed to obtain a premise permit for the mobile transport vehicle that transfers patients to and from the clinic before and after surgeries. This vehicle is acting as an extension of the practice of the ASNC, and as such, is required to obtain a premise permit, or to be stated on the premise permit obtained by ASNC.

Further, the ASNC does not have an after-hours service contract in place for patients who experience complications as a result of procedures performed at the ASNC.

38. WHEREFORE, based on the foregoing, Respondent Weber violated the Alabama Veterinary Practice Act and is therefore subject to discipline by the ASBVME.

**CHARGE 3**  
**Violation(s) of § 34-29-76**

39. The ASBVME incorporates by reference all of the above paragraphs in this Administrative Complaint.

40. The Alabama Veterinary Practice Act § 34-29-76(4) states that “[n]o person shall give false or forged information to the board or a member thereof for the purpose of obtaining a license.”

41. The Alabama Veterinary Practice Act § 34-29-76(7) states that “[n]o person shall knowingly conceal information relative to violations of this article.”

42. The Alabama Veterinary Practice Act § 34-29-76(8) states that “[n]o person shall falsely represent himself or herself as being in a supervisory status without providing such supervision.”

43. Respondent Weber, acting on behalf of the ASNC, has presented false and/or forged information to the Board of the ASBVME for the purpose of obtaining a premise permit for the ASNC.

44. Respondent Weber has concealed information from the ASBVME regarding the true operations and structure of the ASNC that violate the Alabama Veterinary Practice Act by failing to inform the ASBVME that non-licensed veterinarians are essentially practicing veterinary medicine at the ASNC by setting the number of daily surgical procedures performed, directing and determining the types of medicine and materials used by the practicing veterinarians, and setting the practice hours of the practicing veterinarians and their staff.

45. Respondent Weber, acting on behalf of the ASNC, has falsely represented to the ASBVME that he is the “practice owner” and supervising veterinarian of the ASNC when, in fact, he does not own anything at the ASNC, nor does he supervise the practicing veterinarians, licensed veterinary technicians, the veterinary staff, or the surgical and treatment procedures performed at the ASNC.

46. WHEREFORE, based on the foregoing, Respondent Weber violated the Alabama Veterinary Practice Act and is therefore subject to discipline by the ASBVME.

**CHARGE 4**  
**Violation(s) of § 34-29-89**

47. The ASBVME incorporates by reference all of the above paragraphs in this Administrative Complaint.

48. The Alabama Veterinary Practice Act § 34-29-89 states that “[e]ach person to whom a license or premise permit, or both, is issued shall keep such license or premise permit, or both, conspicuously displayed in his or her office, place of business, or place of employment and shall, whenever required, exhibit the license or premise permit, or both, to any member or authorized representative of the board.”

49. Respondent Weber has failed to properly display his license and/or premise permit obtained on behalf of the ASNC. When the ASBVME requested documents and information from Respondent Weber and the ASNC, Respondent Weber and/or the ASNC requested that they receive a copy of the premise permit, indicating that the permit was not properly displayed as required.

50. WHEREFORE, based on the foregoing, Respondent Weber violated the Alabama Veterinary Practice Act and is therefore subject to discipline by the ASBVME.

**CHARGE 5**  
**Violation(s) of § 34-29-94**

51. The ASBVME incorporates by reference all of the above paragraphs in this Administrative Complaint.

52. The Alabama Veterinary Practice Act § 34-29-94(e) states that “[t]he supervising veterinarian may require a licensed veterinary technician to perform any task for which he or she has been trained . . . provided the veterinarian makes examinations in a manner and frequency consistent with the accepted standard of care for the condition of the patient and for the condition being treated.”

53. The Alabama Veterinary Practice Act § 34-29-94(e)(1) sets forth the tasks that a licensed veterinary technician may perform under the indirect supervision of a veterinarian and the direct supervision of a veterinarian when the animal is anesthetized.

54. The Alabama Veterinary Practice Act § 34-29-94 (e)(2) sets forth the tasks that a licensed veterinary technician may perform under the direct supervision of a veterinarian.

55. The Alabama Veterinary Practice Act § 34-29-94(e)(3) sets forth the tasks that an unlicensed assistant may perform under the indirect supervision of a licensed veterinarian or licensed veterinary technician.

56. The Alabama Veterinary Practice Act § 34-29-94(e)(4) sets forth the tasks that an unlicensed assistant may perform under the immediate supervision of a licensed veterinarian or a licensed veterinary technician.

57. Respondent Weber, as “practice owner” and responsible veterinarian of the ASNC, has failed to properly supervise the licensed veterinary technicians at the ASNC. Respondent Weber has provided no direct or indirect supervision to the licensed veterinary technicians nor has he ensured that the licensed veterinary technicians are being properly supervised by other

veterinarians practicing at the ASNC, despite his claim that he is the responsible veterinarian for the facility. Specifically, Respondent Weber has not supervised the practice of licensed veterinary technicians for anesthetized ASNC patients including, but not limited to, surgical site preparation, injections of medications not otherwise prohibited, administration of pre-anesthetic drugs, and placement of devices to allow vascular access.

58. Respondent Weber, as “practice owner” and responsible veterinarian of the ASNC, has failed to directly supervise the ASNC licensed veterinary technicians or ensure that direct supervision is occurring when the licensed veterinary technicians are performing certain tasks including, but not limited to, endotracheal intubation; surgery, diagnostic and treatment procedures, monitoring of vital signs of anesthetized patients, patient anesthesia induction by intravenous, intramuscular, or subcutaneous injection, or by inhalation; and the tasks listed under § 34-29-94(e)(1) when such patients are anesthetized.

59. Respondent Weber, as “practice owner” and supervising veterinarian of the ASNC, has failed to indirectly supervise the ASNC unlicensed assistants or to ensure that indirect supervision is occurring when the unlicensed assistance are performing certain tasks including, but not limited to, blood collection for diagnostic purposes and surgical site preparation.

60. Respondent Weber, as “practice owner” and responsible veterinarian of the ASNC, has failed to provide immediate supervision to the ASNC unlicensed assistants or to ensure that such immediate supervision is occurring when the unlicensed assistants are performing certain tasks including, but not limited to, placement of devices to allow vascular access to patients, intravenous injections of medications not otherwise prohibited, surgery and diagnostic assistance, and placement of endotracheal tubes.

61. WHEREFORE, based on the foregoing, Respondent Weber violated the Alabama

Veterinary Practice Act and is therefore subject to discipline by the ASBVME.

**CHARGE 6**

**Violation(s) of 930-X-1-.07**

62. The ASBVME incorporates by reference all of the above paragraphs in this Administrative Complaint.

63. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.07(4) states that "[t]he Board may reject any application, which does not contain full and complete answers, or information as may be requested and may reject any application if any of the information furnished in the application is determined to be fabricated, false, misleading or incorrect."

64. Respondent Weber has failed to provide full and complete answers regarding his application for licensing. The information Respondent Weber has provided regarding his licensing request for the ASNC was false, misleading, and incorrect.

65. WHEREFORE, based on the foregoing, Respondent Weber violated the Alabama Veterinary Practice Act and is therefore subject to discipline by the ASBVME.

**CHARGE 7**

**Violation(s) of 930-X-1-.10**

66. The ASBVME incorporates by reference all of the above paragraphs in this Administrative Complaint.

67. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.10(4) states that "[a] veterinarian upon his or her own responsibility must decide what employment he or she will accept in his or her professional capacity and what course of treatment will be followed once he or she has accepted employment. . . . No veterinarian shall give any service or advice involving disloyalty to the law. . . . A veterinarian shall not give any service or advice directly towards the corruption of any person or persons exercising a public office or private trust or deception or betrayal of the public."

68. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.10(5) states that "[e]ach veterinarian shall have posted or displayed in his or her office or place of employment in full view of his or her clients, his or her original Alabama license to practice veterinary medicine, current year's display license and premise permit. Alabama State Controlled Substance Registration shall be posted in or near controlled substance cabinet or safe for inspection by state and federal representatives."

69. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.10(6) states that "[v]eterinarians shall exercise the same degree of care, skill and diligence in treating patients as are ordinarily used in the same or similar circumstances by members of the veterinary medical profession in good standing in the locality or community in which they practice or in similar communities."

70. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.10(8) states that a licensed veterinarian shall not use any certificate, college degree, or title to which he or she is not entitled.

71. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.10(9) states that "[a] licensed veterinarian shall not promote, aid, or abet the practice of veterinary medicine by an unlicensed person or promote, aid, or abet any illegal or unethical act on the part of any veterinarian."

72. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.10(10) states that "[e]xcept as otherwise provided by law, a licensed veterinarian shall not allow a person not licensed under the Alabama Veterinary Practice Act to issue certificates with the veterinarian's signature affixed thereto, nor shall he or she permit a person not licensed under the Alabama

Veterinary Practice Act to vaccinate or treat animals unless under the immediate supervision of the licensed veterinarian.”

73. The Alabama Veterinary Practice Act’s Administrative Code 930-X-1-.10(13) states that “[a] licensed veterinarian shall treat all animals entrusted to him or her by his or her clients in keeping with the professional standards of humane treatment and care.”

74. The Alabama Veterinary Practice Act’s Administrative Code 930-X-1-.10(14) states that “[a] licensed veterinarian shall conduct his or her practice on the highest plane of honesty, integrity, and fair dealing with his or her clients, in time and services given, and the amount charged for his or her services, facilities, appliances and drugs.”

75. The Alabama Veterinary Practice Act’s Administrative Code 930-X-1-.10(15) states that “[a] licensed veterinarian shall not violate the confidential relationship between himself or herself and his or her client.”

76. The Alabama Veterinary Practice Act’s Administrative Code 930-X-1-.10(17) states that “[a] veterinarian may advertise his or her services, facilities, training, and fees provided he or she follows the current ‘Principles of Veterinary Medical Ethics on Advertising’ as adopted by the American Veterinary Medical Association.”

77. The Alabama Veterinary Practice Act’s Administrative Code 930-X-1-.10(18) states that “[a]ny veterinarian who uses a present or past position or office of trust to deceptively create for him or herself any professional advantage or to coerce or to deceive the public shall be in violation of the Rules of Professional Conduct.”

78. The Alabama Veterinary Practice Act’s Administrative Code 930-X-1-.10(20) describes the discretion of the Board to revoke, suspend, or otherwise discipline any licensed veterinarian. Grounds for discipline include, but are not limited to: giving false or forged information for the

purpose of getting a license; the employment of fraud, misrepresentation or deception in getting a license; the use of false, misleading, or deceptive advertising; incompetence, gross negligence, or other malpractice; having a professional association with or knowingly employing any person practicing veterinary medicine unlawfully; willful failure to display a license; fraud deception, misrepresentation, dishonesty or illegal practices in or connected with the practice of veterinary medicine; refusing to permit the Board's authorized representative to inspect the business premises of the licensee; and practicing veterinary medicine in a premise without a premise permit or which is not up to premise permit standards.

79. Respondent Weber has failed to independently determine what course of treatment will be followed for ASNC patients. Instead, Respondent Weber and the veterinarians actually performing surgeries at ASNC are directed by Mr. Nelson in regards to the number of surgeries performed, work hours, and medicine, sutures, equipment, etc., used to practice veterinary medicine.

80. Respondent Weber has failed to properly post or display his license, current year's display license, premise permit, and/or Alabama State Controlled Substance Registration in the ASNC. Respondent Weber and/or the ASNC requested a copy of the premise permit when the ASBVME requested certain information from Respondent Weber and the ASNC, indicating to the ASBVME that the premise permit was not displayed.

81. Respondent Weber, as responsible and supervising veterinarian of the ASNC, has failed to exercise the proper standard of care in treating ASNC patients by allowing excessive numbers of daily spays and neuters to be performed at the clinic. The excessive number of surgeries coupled with the type of procedure used has caused an unacceptable amount of life-threatening complications in ASNC patients. Respondent Weber has provided little to no follow-up for

patients undergoing surgery at the ASNC, particularly those patients who are returned by transport vehicle to another city after the surgery is completed. Further, Respondent Weber has provided little to no supervision for his “employed” veterinarians licensed veterinary technicians, and other staff members that treat ASNC patients.

82. Respondent Weber has aided and/or abetted the practice of veterinary medicine by an unlicensed person by allowing Mr. Nelson to dictate the daily number of spays and neuters performed at the ASNC, the work hours of the licensed veterinarians performing surgeries, and the types of medicine, sutures, procedures, and/or equipment used to practice veterinary medicine at the ASNC.

83. Respondent Weber has failed to provide the proper immediate supervision for non-licensed individuals who are vaccinating or treating animals at the ASNC.

84. Respondent Weber has failed to treat the animals entrusted to him by clients of the ASNC with the professional standards of humane treatment and care.

85. Respondent Weber has failed to conduct his practice on the highest plane of honesty, integrity, and fair dealing with his clients by representing. Respondent Weber has represented himself as the “practice owner” of ASNC although he does not perform operations on or treat the patients.

86. Respondent Weber has failed to establish a veterinarian-client-patient relationship for the patients entering the ASNC.

87. Respondent Weber has failed to properly advertise his services, facilities, and/or fees associated with the ASNC by the standards of the current “Principles of Veterinary Medical Ethics on Advertising.”

88. Respondent Weber has committed the following violations subject to discipline by the Board:

- a. Giving false or forged information to the Board or a member thereof for the purpose of getting a license;
- b. Using fraud, misrepresentation, or deception in getting a license;
- c. Advertising or soliciting with false, misleading, or deceptive information;
- d. Incompetence, gross negligence, or other malpractice in the practice of veterinary medicine;
- e. Having professional association with or knowingly employing any person practicing veterinary medicine unlawfully;
- f. Willful failure to display a license;
- g. Fraud, deception, misrepresentation, dishonesty or illegal practices in or connected with the practice of veterinary medicine;
- h. Refusing to permit the Board's authorized representative to inspect the business premises of the licensee during regular business hours; and
- i. Practicing veterinary medicine in a premise without a premise permit or which is not up to premise permit standards.

89. WHEREFORE, based on the foregoing, Respondent Weber violated the Alabama Veterinary Practice Act and is therefore subject to discipline by the ASBVME.

**CHARGE 8**  
**Violation(s) of 930-X-1-11**

90. The ASBVME incorporates by reference all of the above paragraphs in this Administrative Complaint.

91. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.11(1) states that "[a] licensed veterinarian shall not prescribe or dispense, deliver or order delivered: (a) Any [restricted] drug or medicinal agent . . . to be administered to animals with which he or she has not established a veterinary-client-patient relationship . . . ; [or] (b) Any controlled substance . . . without first having established a veterinary-client-patient relationship by having personally examined the individual animal . . . and determined that such controlled substance is therapeutically indicated following said examination."

92. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.11(2) states that a "[v]eterinary-client-patient relationship . . . shall be defined as a relationship created by actual examination by the veterinarian of the animal . . . ."

93. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.11(3) states that "[a]ny veterinarian who violates this rule shall be guilty of unprofessional conduct within the meaning of this section."

94. Respondent Weber has failed to properly establish a veterinary-client-patient relationship by having personally examined the individual patient presenting to the ASNC to determine that a controlled substance is medically indicated following said examination.

95. WHEREFORE, based on the foregoing, Respondent Weber violated the Alabama Veterinary Practice Act and is therefore subject to discipline by the ASBVME.

**CHARGE 9**  
**Violation(s) of 930-X-1-.13**

96. The ASBVME incorporates by reference all of the above paragraphs in this Administrative Complaint.

97. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.13(1) states that "[a]ll licensed veterinarians who handle controlled substances must register annually with the State Board and get a state controlled substance number for the Board.

98. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.13(2) states that "[a]ll veterinarians are required to comply with current PDMP (Prescription Drug Monitoring Program) requirements.

99. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.13(3) states that "[a]ll veterinarians are required to comply with current federal DEA regulations (C.F.R. 21) which includes regular inventories and a biennial inventory report must be readily available for inspection by state and federal representatives."

100. Respondent Weber has failed to properly inventory and make readily available for inspection the inventory of controlled substances used as the ASNC.

101. WHEREFORE, based on the foregoing, Respondent Weber violated the Alabama Veterinary Practice Act and is therefore subject to discipline by the ASBVME.

**CHARGE 10**  
**Violation(s) of 930-X-1-.31**

102. The ASBVME incorporates by reference all of the above paragraphs in this Administrative Complaint.

103. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.31(b) states that patient records must:(1) be maintained on every animal and be legibly documented in an accurate and timely manner; (2) be readily accessible and permit prompt retrieval of information; (3) be kept for a minimum of three years following the last office visit or discharge of the animal from the veterinary facility; (4) identify the patient's problem and condition as

specifically as possible; (5) be filed in an adequate filing system; and (6) if paperless, meet all recording criteria, and proof of periodic backup must be provided.

104. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.31(g) states that surgeries performed at a veterinary facility must: (1) be performed in a manner compatible with current veterinary medical practice with regard to anesthesia, asepsis, life support and monitoring procedures as well as recovery care, while always maintaining a level of safe humane care to patients; (2) be performed in a room designed and reserved for surgery which is clean, orderly, well lighted and have available emergency lighting; (3) provide and use proper gas anesthesia and positive pressure oxygen delivery systems when indicated; (4) provide sterilization of instruments; (5) provide instruments and equipment commensurate with the type of surgical services being provided; (6) provide emergency drugs readily available to the surgical area; (7) provide a table constructed of impervious and smooth material; (8) provide a separate prep area outside the surgical suite; and (9) sterilize and use the proper equipment for surgery.

105. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.31(k) states that "[e]mergency service must be provided and readily available. After hours and emergency information provided by answering machines should be clear and concise as to whom will be responding or what facility will be accepting the referral."

106. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.31(n) states that "[a] practice must be inspected and approved immediately following a change in ownership and before any further operation of the facility."

107. The Alabama Veterinary Practice Act's Administrative Code 930-X-1-.31(q) states that "[t]he Board may, after notice and a hearing, impose a penalty against any owner, operator or responsible veterinarian of any premises operating without a premise permit in

violation of this section or any rule promulgated by the Board. No penalty so imposed shall exceed \$1,000.00 for each count or separate offense.”

108. Respondent Weber has failed to properly maintain records for the patients of the ASNC.

109. Respondent Weber has failed to ensure that the surgical area of the ASNC meets the minimum standards for veterinary facilities. Multiple patients recover on the floor of the operating room at the ASNC and some have suffered injuries as a result of such practice.

110. Respondent Weber has failed to comply with the minimum standards required for veterinary facilities by not providing after-hours and emergency care for all ASNC patients.

111. Respondent Weber failed to have the ASNC inspected after he became the “practice owner” despite continuing operations at the facility.

112. WHEREFORE, based on the foregoing, Respondent Weber violated the Alabama Veterinary Practice Act and is therefore subject to discipline by the ASBVME.

**CHARGE 11**  
**Violation(s) of 930-X-1-.37(1)**

113. The ASBVME incorporates by reference all of the above paragraphs in this Administrative Complaint.

114. The Alabama Veterinary Practice Act’s Administrative Code 930-X-1-.37(1), in relevant part, states that the following conduct is unprofessional and violates the Alabama Veterinary Practice Act and is grounds for disciplinary action by the board:

- a. Practicing or offering to practice as a licensed veterinary technician without being employed and supervised by a licensed veterinarian;
- b. Accepting payment for services rendered as a licensed veterinary technician from someone other than the veterinary technician's employer;

- c. Compromising the confidentiality of the veterinarian-client-patient relationship;
- d. Failing to acknowledge that the licensed veterinary technician is not a licensed veterinarian or that the veterinary technician is an employee of a veterinarian;
- e. Undertaking procedures or performing treatment that has not been authorized by the supervising veterinarian;
- f. Aiding or abetting the practice of veterinary medicine or veterinary technology by a person not licensed by the board;
- g. Giving false sworn information in testimony or affidavit about the content of clinical records or the rendering of patient care in the course of practice as a licensed veterinary technician.

115. WHEREFORE, based on the foregoing, Respondent Weber violated the Alabama Veterinary Practice Act and is therefore subject to discipline by the ASBVME.

**CONCLUSION**

WHEREFORE, PREMISES CONSIDERED, the ASBVME prays that a hearing on this complaint be held and that an Order be entered to revoke or suspend Respondent Weber's license and/or premise permit for the ASNC. In the event that Respondent's license and/or premise permit is not revoked or suspended, the Board prays that other discipline, fines, and/or costs be imposed in compliance with the Veterinary Practice Act.

**FOR THE ALABAMA STATE BOARD OF VETERINARY MEDICAL EXAMINERS**



**Tammy S. Cargile**

**Executive Director, Alabama State Board of Veterinary Medical Examiners**



Signed this, the 13 day of December, 2013.



/s Mark G. Montiel, Sr.

Mark G. Montiel, Sr.

Attorney for the ASBVME

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