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APPENDIX A

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

Case No. 2017-0729

[Filed November 27, 2018]

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Sandra Brown, DVM	)
	)

In Case No. 2017-0729, Appeal of Sandra Brown, DVM, the court on November 27, 2018, issued the following order:

Supreme Court Rule 22(2) provides that a party filing a motion for rehearing or reconsideration shall state with particularity the points of law or fact that she claims the court has overlooked or misapprehended.

We have reviewed the claims made in the petitioner's motion for reconsideration and conclude that no points of law or fact were overlooked or misapprehended in our decision. Accordingly, upon reconsideration, we affirm our November 1, 2018 decision and deny the relief requested in the motion.

Relief requested in motion for reconsideration denied.

Lynn, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

Eileen Fox,
Clerk

Distribution:
New Hampshire Board of Veterinary Medicine, 2-7/13
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APPENDIX B

THE SUPREME COURT OF NEW HAMPSHIRE

Board of Veterinary Medicine

No. 2017-0729

[Filed November 1, 2018]

APPEAL OF)
SANDRA BROWN, DVM)
)

(New Hampshire Board of Veterinary Medicine)

Argued: October 11, 2018
Opinion Issued: November 1, 2018

Steiner Law Office, PLLC, of Concord (R. James Steiner and Michael A. Chen on the brief, and Mr. Steiner orally), for the petitioner.

Gordon J. MacDonald, attorney general (Thomas Broderick, assistant attorney general, on the brief and orally), for the respondent.

HICKS, J. The petitioner, Sandra Brown, DVM, appeals an October 2017 decision by the respondent, the New Hampshire Board of Veterinary Medicine (Board), suspending her license to practice veterinary medicine for six months and further prohibiting her, following the six-month suspension and until December 31, 2021, from dispensing, possessing, or administering controlled substances (other than euthanasia solution) in her practice. On appeal, she argues that the Board lacked subject matter jurisdiction to discipline her for violating the Controlled Drug Act, see RSA ch. 318-B (2017 & Supp. 2017), because the Board is not one of the agencies statutorily authorized to enforce that act. She also asserts that the Board lacked jurisdiction to subject her practice to post-hearing inspections.

Although the petitioner makes other appellate arguments, we decline to address them substantively. Those arguments are not properly before us because, to the extent that the petitioner raised them before the Board, she did so, for the first time, in an untimely motion for reconsideration, which is insufficient to preserve them for our review. See RSA 541:3, :4 (2007); cf. In the Matter of Sweatt & Sweatt, 170 N.H. 414, 424 (2017) (concluding that, "because the respondent did not raise [his appellate] arguments in the trial court or

in a timely motion for reconsideration, they are not preserved for our review"). We affirm.

The Board found, or the certified record supports, the following facts. In May and June of 2013, the Board received complaints from two of the petitioner's former employees alleging, among other things, that she improperly managed medication and equipment. After investigating the complaints, the Board commenced an adjudicatory proceeding. See RSA 332-B:15 (2017). Based upon the evidence at the hearing, the Board determined that the petitioner had committed professional misconduct within the meaning of RSA 332-B:14, II(d) (2017) because she had "engaged in a pattern of conduct inconsistent with the basic skills and knowledge required to practice veterinary medicine." The Board decided that, despite the instances of misconduct, it would not suspend or revoke the petitioner's license, but would, instead "impos[e] a series of remedial measures designed to improve [her] overall medical knowledge and competence." As a result, the Board ordered that the petitioner's "practice [would] be subject to [B]oard inspections, which [might] be announced or unannounced, for a period of four . . . years" from the Board's September 2015 decision. Such inspections would include examining the petitioner's records as well as reviewing her "hospital[,] surgical[,] . . . medical[,] . . . [and] management practices." Documents in the certified record suggest that the petitioner may have signed a settlement agreement with the Board in which she agreed to the inspections. See RSA 332-B:14, IV, :16, V (2017) (authorizing the Board to dispose of allegations by entering into a settlement agreement or consent order).

The Board inspected the petitioner's practice in May, September, and December 2016. The Board of Pharmacy, on behalf of the Board, inspected her practice in October 2016. See RSA 318:9-a (2015). As a result of the findings from those inspections, the Board commenced another adjudicatory proceeding against the petitioner. See RSA 332-B:15. Following a hearing, the Board found that she had committed professional misconduct within the meaning of RSA 332-B:14, II (2017).

Specifically, the Board found that the petitioner had continually and willfully prescribed and used expired medications, even after having been notified not to do so. See RSA 332-B:14, II(d). The Board determined that doing so was "dangerous as expired medications can develop increased potency, decreased potency, or become toxic." The Board found that the petitioner's conduct was willful, observing that she had "[gone] so far as to make a waiver to justify the use of expired medication." See id.

Additionally, the Board found that the petitioner "consistently showed a nonchalant attitude towards the multiple investigations and hearings" and that she failed to "take remedial corrective measure[s] in a timely fashion" after prior investigations had brought problems to her attention. See RSA 332-B:14, II(g).

The Board further found that the petitioner failed "to keep" her "veterinary premises and equipment in a safe, clean, and sanitary condition." RSA 332-B:14, II(*l*). According to the Board, the petitioner's "mobile [veterinary] unit was . . . disorganized, contained expired medications, and there were no actions being

taken to maintain an appropriate temperature to store the medication properly."

Also, the Board found that the petitioner's medical record-keeping demonstrated "a continued pattern of not being forthcoming with clients," in that she failed to document discussions with clients about adverse outcomes, including one instance in which her medical error led to the death of an animal in her care. See RSA 332-B:14, II(n).

Finally, the Board found that the petitioner violated RSA 318-B:10, II (2017) by filling prescriptions for schedule IV controlled substances for more than a seven-day supply on multiple occasions, and that she violated RSA 318-B:12, I (2017) by "failing to adequately and accurately keep controlled drug records." The Board "felt that [the petitioner] showed a lack of concern at the seriousness" of the inaccurate controlled drug records. The Board expressed "significant concerns regarding [her] ability to properly prescribe and maintain controlled substances." The Board ruled that the violations of RSA 318-B:10, II and :12, I, constituted "unprofessional conduct" within the meaning of RSA 332-B:14, II(c). See N.H. Admin. R., Vet 501.02 (providing that "[c]onduct which violates the Principles of Veterinary Medical Ethics of the AVMA as revised April 2016" constitutes "unprofessional or dishonorable conduct pursuant to RSA 332-B:14, II(c)"); see also American Veterinary Medical Association, Principles of Veterinary Medical Ethics of the AVMA § IV (2016) ("A veterinarian shall respect the law," which means that he or she "should obey all laws of the jurisdictions in which [he or she] reside[s] and

practice[s] veterinary medicine."), available at https://www.avma.org/KB/Policies/Pages/Principles-of-Veterinary-Medical-Ethics-of-the-AVMA.aspx.

Because of this conduct, in addition to suspending the petitioner's veterinary license for six months, the Board ordered that, after the suspension and until December 31, 2021, she would "be limited to practice veterinary medicine without controlled substances, with the exception of euthanasia solution," meaning that she would "be unable to dispense or administer controlled substances" and could not keep such substances (other than euthanasia solution) "on the clinic grounds or in the mobile unit." However, the Board specified that the petitioner would "maintain the ability to prescribe controlled substances via outside pharmacies."

The Board issued its decision on October 3, 2017. Approximately ten days later, the petitioner filed a timely motion for rehearing, see RSA 541:3, in which she admitted that she filled a prescription for a controlled drug for more than a seven-day supply and that her controlled drug logbooks contained inaccuracies. She also admitted to having dispensed expired medications. She stated that she accepted the Board's "limitation on her veterinary license to practice without controlled substances, with the exception of euthanasia," but requested that the restrictions be modified so as to allow her to use Butorphanol. Approximately one month after filing her motion for rehearing, the petitioner requested permission to prescribe controlled drugs and suggested that the

Board "appoint a person it deems fit to oversee [her] compliance with controlled drugs." On November 28, 2017, after reviewing the petitioner's motion and supplement thereto as well as the objection filed by hearing counsel, the Board denied the motion, concluding that its decision on the merits contained no errors.

On December 21, 2017, the petitioner filed a second motion for rehearing in which, for the first time, she argued that the Board: (1) lacked authority "to regulate the prescription, storage or dispensing of . . . controlled drugs," and, therefore, could not have determined that the petitioner committed misconduct within the meaning of RSA 332-B:14, II(d) by continually prescribing expired medications; (2) violated the petitioner's state and federal constitutional rights to due process by arbitrarily creating a standard of care with respect to the recording of communications with clients; and (3) improperly determined that she violated provisions of the Controlled Drug Act because the Board "is not the administrative or judicial body to oversee, adjudicate, or enforce" that act and, by so doing, infringed upon her due process rights.

On December 27, 2017, the petitioner filed a timely appeal in this court, challenging the Board's October merits decision and its November denial of her first motion for rehearing. The Board denied the petitioner's second motion approximately one month later, on February 8, 2018. The Board "again concluded there were no . . . errors of fact, errors of reasoning, or erroneous conclusions" in its October 2017 order on the merits, and observed that the petitioner's second

motion for rehearing "was filed well outside" the statutory time frame for such motions. See id.

On appeal, the petitioner argues, among other things, that the Board lacked subject matter jurisdiction to discipline her for allegedly violating the Controlled Drug Act. She asserts that "the authority to . . . enforce the Controlled Drug Act lies with the Board of Pharmacy" and that the Board in this case "is not authorized to . . . sanction a practitioner based on alleged violations of the Controlled Drug Act." Although the petitioner raised this argument for the first time in her second, untimely motion for rehearing, we address it because "the issue of subject matter jurisdiction may be raised at any time in the proceedings." Route 12 Books & Video v. Town of Troy, 149 N.H. 569, 575 (2003).

"RSA chapter 541 governs our review of [B]oard decisions." Appeal of Huston, 150 N.H. 410, 411 (2013); see RSA 332-B:16, VII (2017). "[W]e will not set aside the [B]oard's order except for errors of law, unless we are satisfied by a clear preponderance of the evidence, that it is unjust or unreasonable." In the Matter of Bloomfield, 166 N.H. 475, 478 (2014) (quotation omitted); see RSA 541:13 (2007). "The [B]oard's findings of fact are presumed prima facie lawful and reasonable." In the Matter of Bloomfield, 166 N.H. at 478 (quotation omitted); see RSA 541:13. "In reviewing the Board's findings, our task is not to determine whether we would have found differently or to reweigh the evidence, but rather, to determine whether the findings are supported by competent evidence in the record." In the Matter of Bloomfield, 166 N.H. at 478.

We review the Board's rulings on issues of law de novo. Appeal of Huston, 150 N.H. at 411.

"Administrative agencies are granted only limited and special subject matter jurisdiction." Appeal of Campaign for Ratepayers' Rights, 162 N.H. 245, 250 (2011) (quotation and ellipsis omitted). "That jurisdiction is dependent entirely upon the statutes vesting the agency with power and the agency cannot confer jurisdiction upon itself." Id. (quotation and brackets omitted).

To determine whether the Board had subject matter jurisdiction to discipline the petitioner for violating the Controlled Drug Act, we examine RSA chapter 332-B, the Veterinary Practice Act. See RSA ch. 332-B (2017 & Supp. 2017). We are the final arbiter of the legislature's intent as expressed in the words of the statute considered as a whole. Robinson v. N.H. Real Estate Comm'n, 157 N.H. 729, 731 (2008). We first examine the language of the statute, and, where possible, ascribe the plain and ordinary meanings to the words used. Id. When a statute's language is plain and unambiguous, we need not look beyond it for further indication of legislative intent, and we refuse to consider what the legislature might have said or add language that the legislature did not see fit to incorporate in the statute. Id. Furthermore, we interpret statutes in the context of the overall statutory scheme and not in isolation. Id. By so doing, we are better able to discern the legislature's intent and to interpret statutory language in light of the policy or purpose sought to be advanced by the statutory scheme. Id.

The stated purpose of the Board "is to promote public health, safety, and welfare by safeguarding the people of New Hampshire against incompetent, unscrupulous, and unauthorized persons and from unprofessional or illegal practices by persons licensed to practice veterinary medicine." RSA 332-B:1-a (2017). Towards those ends, RSA chapter 332-B authorizes the Board to: (1) "[e]xamine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine in this state"; (2) "[i]ssue, renew, deny, suspend, revoke licenses and temporary permits to practice veterinary medicine in the state or otherwise discipline licensed veterinarians consistent with the provisions of [RSA] chapter [332-B] and the rules and regulations adopted thereunder"; (3) "[e]stablish [licensing] fees"; (4) "[c]onduct investigations and hearings as provided in RSA 332-B:15 and RSA 332-B:16"; and (5) "[b]ring proceedings in the courts" to enforce RSA chapter 332-B "or any regulations made pursuant thereto." RSA 332-B:7, I-IV, VIII (2017).

RSA 332-B:14 (2017) governs disciplinary proceedings by the Board. Pursuant to RSA 332-B:14, II, "[m]isconduct sufficient to support disciplinary proceedings" includes "[a]ny unprofessional conduct, or dishonorable conduct unworthy of, and affecting the practice of, the profession." RSA 332-B:14, II(c). RSA 332-B:14, III allows the Board to revoke, suspend, limit, or restrict a veterinarian's license because of misconduct. RSA 332-B:14, III(b), (c). Thus, RSA chapter 332-B allows the Board to discipline a veterinarian for engaging in "any unprofessional" or "dishonorable" conduct. RSA 332-B:14, II(c).

Consistent with its rule-making authority under RSA 332-B:7-a (Supp. 2017), the Board has adopted regulations clarifying that "[c]onduct which violates the Principles of Veterinary Medical Ethics of the AVMA as revised April 2016" constitutes "unprofessional or dishonorable conduct pursuant to RSA 332-B:14, II(c)." N.H. Admin. R., Vet 501.02. Those principles, in turn, exhort veterinarians to "obey all laws" of the jurisdiction in which they "reside and practice veterinary medicine." American Veterinary Medical Association, supra § IV(a).

Although we need not decide the full scope of the Board's jurisdiction to discipline a veterinarian for the violation of "all laws," we conclude that the Board had subject matter jurisdiction to discipline the petitioner for violating the Controlled Drug Act. Even if we assume without deciding that the Board's jurisdiction is limited to disciplining licensed veterinarians for violating laws bearing a nexus to the Board's purpose of promoting "public health, safety, and welfare" by protecting the public from "incompetent, unscrupulous, and unauthorized persons and from unprofessional or illegal practices by" licensed veterinarians, RSA 332-B:1-a, the violations of the Controlled Drug Act at issue plainly fall within that jurisdiction.

Contrary to the petitioner's assertions, nothing in the Controlled Drug Act compels a different conclusion. Nothing in that act precludes the Board from disciplining a veterinarian for engaging in "unprofessional" conduct that includes violating provisions of the Controlled Drug Act. Indeed, the Board has the exclusive authority to subject licensed

veterinarians to professional discipline. See RSA 332-B:7, :14, :15, VI, :15-a (2017); cf. RSA 332-B:9, :17 (2017).

The petitioner also asserts that the Board lacked jurisdiction to subject her practice to inspections pursuant to its September 2015 order and that the Board, therefore, "relied impermissibly" on those inspections and on the inspecting veterinarian's testimony. However, documents in the certified record suggest that the petitioner agreed, at the very least implicitly, to the inspections as part of a settlement agreement with the Board. Moreover, RSA 332-B:14, III(b) authorizes the Board to discipline a licensee by restricting or limiting that individual's license. Subjecting an individual's practice to periodic inspections is a form of restriction or limitation on that person's license to practice veterinary medicine.

For all of the above reasons, we hold that the Board had subject matter jurisdiction to discipline the petitioner for violating the Controlled Drug Act and to subject her practice to post-hearing inspections.

Affirmed.

LYNN, C.J., and BASSETT, HANTZ MARCONI, and DONOVAN, JJ., concurred.

APPENDIX C

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

Case No. 2017-0729

[Filed February 9, 2018]

Appeal of	)
Sandra Brown, DVM	)
	)

In Case No. 2017-0729, Appeal of Sandra Brown, DVM, the court on February 9, 2018, issued the following order:

Appeal from a decision of the New Hampshire Board of Veterinary Medicine is accepted and will be scheduled for oral argument before the full court.

The motion to dismiss for lack of subject matter jurisdiction is denied without prejudice to the parties' ability to address those issues in their respective briefs.

This case appears to be eligible for mediation pursuant to Rule 12-A. Under Rule 12-A(2), the agreement of all parties is required for appellate mediation. If all parties in this case agree to participate in mediation, Sandra Brown shall submit the completed Appellate Mediation Agreement form to the court on or before February 26, 2018. An Appellate Mediation Agreement form (NHJB-2614-SUP) is being provided to Sandra Brown with this order. If an

Appellate Mediation Agreement form is not filed, an order will be issued regarding further proceedings.

Dalianis, C.J., and Hicks, Lynn, Bassett, and Hantz Marconi, JJ., participated.

Eileen Fox,
Clerk

Distribution:
New Hampshire Board of Veterinary Medicine, 2-7/13
R. James Steiner, Esq.
Michelle Heaton, Esq.
File

APPENDIX D

RSA 318:8. Board of Pharmacy. Enforcement of Law

It shall be the duty of the board [of pharmacy], through officials and employees appointed by it or under its supervision for that purpose, and of all peace officers within the state, and of all county attorneys, to enforce all the provisions of this chapter. When so requested, the department of health and human services and its officials and employees shall cooperate with the board in collecting and analyzing samples of drugs and medicines sold, or suspected of being sold, in violation of this chapter. The members of the board, its inspectors and investigators shall have free access during business hours to all places where drugs, medicines, poisons or hypodermic devices are held, stored, or offered for sale and to all records of sale and disposition of drugs.

RSA 318:8-a. Board of Pharmacy, Inspection and Regulation of Certain Users of Prescription Drugs

All physicians, veterinarians, dentists, advanced registered nurse practitioners, physician assistants, and clinics under contract to the department of health and human services and agricultural, technical, or industrial users of prescription drugs shall be subject to inspection and regulation by the board of pharmacy

with regard to the storage, labeling, distribution, and disposal of prescription drugs.

RSA 318:9-a. Board of Pharmacy. Inspectional Services

The pharmacy board shall provide inspectional services under this chapter and RSA 318-B:25 to the board of medicine, the board of veterinary medicine, the board of podiatry, the board of registration in optometry, the board of dental examiners, and the board of nursing.

RSA 318-B:18. Controlled Drug Act. Notice of Conviction to be Sent to Licensing Board

On the conviction of any person for violation of any provision of this chapter, a copy of the judgment and sentence, and of the opinion of the superior court if any opinion is filed, shall be sent by the clerk of the court to the board by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. The board may summarily suspend, limit or revoke the license or registration of the convicted defendant to practice his profession or to carry on his business.

RSA 318-B:23. Controlled Drug Act. Enforcement and Cooperation

It is hereby made the duty of the department of health and human services, its officers, agents, inspectors, and representatives; the pharmacy board, its officers, agents, inspectors and representatives; and

of all peace officers within the state, and of all county attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled drugs.

RSA 318-B:25. Controlled Drug Act. Authority for Inspection

All officers, agents, inspectors and representatives of the department of health and human services who are charged with the responsibility to enforce this chapter; all officers, agents, inspectors, and representatives of the pharmacy board who are charged with the responsibility to enforce this chapter; all peace officers within the state; the attorney general and all county attorneys; and federal, state, county and municipal law enforcement officers are authorized to enter during normal business hours upon the premises used by a practitioner for the purpose of his practice and to inspect such original records or prescriptions or both for controlled drugs as defined herein. Every practitioner, his clerk, agent, or servant shall exhibit to such person on demand every such original record or prescription or both so kept on file.

RSA 318-B:26. Controlled Drug Act. Penalties

I. Any person who manufactures, sells, prescribes, administers, or transports or possesses with intent to sell, dispense, or compound any controlled drug, controlled drug analog or any preparation containing a controlled drug, except as authorized in this chapter; or

manufactures, sells, or transports or possesses with intent to sell, dispense, compound, package or repackage (1) any substance which he represents to be a controlled drug, or controlled drug analog, or (2) any preparation containing a substance which he represents to be a controlled drug, or controlled drug analog, shall be sentenced as follows, except as otherwise provided in this section:

(a) In the case of a violation involving any of the following, a person shall be sentenced to a maximum term of imprisonment of not more than 30 years, a fine of not more than $500,000, or both. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person may be sentenced to a maximum term of life imprisonment, a fine of not more than $500,000, or both:

(1) Five ounces or more of a mixture or substance containing any of the following, including any adulterants or dilutants:

(A) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; or

(B) Cocaine other than crack cocaine, its salts, optical and geometric isomers, and salts of isomers; or

(C) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

(2) Lysergic acid diethylamide, or its analog, in a quantity of 100 milligrams or more including any adulterants or dilutants, or phencyclidine (PCP), or its

analog, in a quantity of 10 grams or more including any adulterants or dilutants.

(3) Heroin or its analog, crack cocaine, or a fentanyl class drug in a quantity of 5 grams or more, including any adulterants or dilutants.

(4) Methamphetamine or its analog, in a quantity of 5 ounces or more, including adulterants or dilutants.

(b) In the case of a violation involving any of the following, a person may be sentenced to a maximum term of imprisonment of not more than 20 years, a fine of not more than $300,000, or both. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person may be sentenced to a term of imprisonment of not more than 40 years, a fine of not more than $500,000, or both:

(1) A substance or mixture referred to in subparagraph I(a)(1) of this section, other than crack cocaine, in a quantity of 1/2 ounce or more, including any adulterants or dilutants;

(2) A substance classified in schedule I or II other than those specifically covered in this section, or the analog of any such substance, in a quantity of one ounce or more including any adulterants or dilutants;

(3) Lysergic acid diethylamide, or its analog, in a quantity of less than 100 milligrams including any adulterants or dilutants, or where the amount is undetermined, or phencyclidine (PCP) or its analog, in a quantity of less than 10 grams, including any

adulterants or dilutants, or where the amount is undetermined;

(4) Heroin or its analog, crack cocaine, or a fentanyl class drug in a quantity of one gram or more, including any adulterants or dilutants;

(5) Methamphetamine or its analog, in a quantity of one ounce or more including any adulterants or dilutants;

(6) Marijuana in a quantity of 5 pounds or more including any adulterants or dilutants, or hashish in a quantity of one pound or more including any adulterants and dilutants;

(7) Flunitrazepam in a quantity of 500 milligrams or more.

(c) In the case of a violation involving any of the following, a person may be sentenced to a maximum term of imprisonment of not more than 7 years, a fine of not more than $100,000, or both. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person may be sentenced to a maximum term of imprisonment of not more than 15 years, a fine of not more than $200,000, or both:

(1) A substance or mixture referred to in subparagraph I(a)(1) of this section, other than crack cocaine, in a quantity less than 1/2 ounce including any adulterants or dilutants;

(2) A substance or mixture classified as a narcotic drug in schedule I or II other than those specifically

covered in this section, or the analog of any such substance, in a quantity of less than one ounce including any adulterants or dilutants;

(3) Methamphetamine, or its analog in a quantity of less than one ounce including any adulterants or dilutants;

(4) Heroin or its analog, crack cocaine, or a fentanyl class drug in a quantity of less than one gram, including any adulterants or dilutants;

(5) Marijuana in a quantity of one ounce or more including any adulterants or dilutants, or hashish in a quantity of 5 grams or more including any adulterants or dilutants;

(6) Flunitrazepam in a quantity of less than 500 milligrams;

(7) Any other controlled drug or its analog, other than those specifically covered in this section, classified in schedules I, II, III or IV.

(d) In the case of a violation involving any of the following, a person may be sentenced to a maximum term of imprisonment of not more than 3 years, a fine of not more than $25,000, or both. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person may be sentenced to a maximum term of imprisonment of not more than 6 years, a fine of not more than $50,000, or both:

(1) Marijuana in a quantity of less than one ounce including any adulterants or dilutants, or hashish in a

quantity of less than 5 grams including any adulterants or dilutants;

(2) Any schedule V substance or its analog.

II. Any person who knowingly or purposely obtains, purchases, transports, or possesses actually or constructively, or has under his or her control, any controlled drug or controlled drug analog, or any preparation containing a controlled drug or controlled drug analog, except as authorized in this chapter, shall be sentenced as follows, except as otherwise provided in this section:

(a) In the case of a controlled drug or its analog, classified in schedules I, II, III, or IV, other than those specifically covered in this section, the person shall be guilty of a class B felony, except that notwithstanding the provisions of RSA 651:2, IV(a), a fine of not more than $25,000 may be imposed. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person shall be guilty of a class A felony, except that notwithstanding the provisions of RSA 651:2, IV(a), a fine of up to $50,000 may be imposed.

(b) In the case of a controlled drug or its analog classified in schedule V, the person shall be sentenced to a maximum term of imprisonment of not more than 3 years, a fine of not more than $15,000, or both. If a person commits any such violation after one or more prior offenses as defined in RSA 318-B:27, such person shall be guilty of a class B felony, except that notwithstanding the provisions of RSA 651:2, IV(a), a fine of not more than $25,000 may be imposed.

(c) In the case of more than 3/4 ounce of marijuana or more than 5 grams of hashish, including any adulterants or dilutants, the person shall be guilty of a misdemeanor. In the case of marijuana-infused products possessed by persons under the age of 21 or marijuana-infused products as defined in RSA 318-B:2-e, other than a personal-use amount of a regulated marijuana-infused product as defined in RSA 318-B:2-c, I(b), that are possessed by a person 21 years of age or older, the person shall be guilty of a misdemeanor.

(d) In the case of 3/4 ounce or less of marijuana or 5 grams or less of hashish, including any adulterants or dilutants, the person shall be guilty of a violation pursuant to RSA 318-B:2-c. In the case of a person 21 years of age or older who possesses a personal-use amount of a regulated marijuana-infused product as defined in RSA 318-B:2-c, I(b), the person shall be guilty of a violation pursuant to RSA 318-B:2-c.

(e) In the case of a residual amount of a controlled substance, as defined in RSA 318-B:1, XXIX-a, a person shall be guilty of a misdemeanor if the person is not part of a service syringe program under RSA 318-B:43.

III. A person shall be guilty of a misdemeanor who:

(a) Except as provided in RSA 318-B:2-c, controls any premises or vehicle where he or she knows a controlled drug or its analog is illegally kept or deposited;

(b) Aids, assists or abets a person in his presence in the perpetration of a crime punishable under paragraph II of this section, knowing that such person

is illegally in possession of a controlled drug or its analog.

(c) Manufactures with the intent to deliver, delivers or possesses with the intent to deliver any drug paraphernalia when such paraphernalia is knowingly manufactured, delivered or possessed for one or more of the uses set forth in RSA 318-B:2, II.

(d) Places an advertisement in violation of RSA 318-B:2, III.

III-a. [Repealed.]

IV. Any person who attempts or conspires to commit any offense defined in this chapter is punishable by imprisonment or a fine or both, which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

V. Any person who violates this chapter by manufacturing, selling, prescribing, administering, dispensing, or possessing with intent to sell, dispense, or compound any controlled drug or its analog, in or on or within 1,000 feet of the real property comprising a public or private elementary, secondary, or secondary vocational-technical school, may be sentenced to a term of imprisonment or fine, or both, up to twice that otherwise authorized by this section. Except to the extent a greater minimum sentence is otherwise provided by this chapter, a sentence imposed under this paragraph shall include a mandatory minimum term of imprisonment of not less than one year. Neither the whole nor any part of the mandatory

minimum sentence imposed under this paragraph shall be suspended or reduced.

VI. Except as otherwise provided in this paragraph, a person convicted under RSA 318-B:2, XII as a drug enterprise leader shall be sentenced to a mandatory minimum term of not less than 25 years and may be sentenced to a maximum term of not more than life imprisonment. The court may also impose a fine not to exceed $500,000 or 5 times the street value of the controlled drug or controlled drug analog involved, whichever is greater. Upon conviction, the court shall impose the mandatory sentence unless the defendant has pleaded guilty pursuant to a negotiated agreement or, in cases resulting in trial, the defendant and the state have entered into a post-conviction agreement which provides for a lesser sentence. The negotiated plea or post-conviction agreement may provide for a specified term of imprisonment within the range of ordinary or extended sentences authorized by law, a specified fine, or other disposition. In that event, the court at sentencing shall not impose a lesser term of imprisonment or fine than that expressly provided for under the terms of the plea or post-conviction agreement.

VII. Any person who violates RSA 318-B:2, XI may be sentenced to a maximum term of imprisonment of not more than 20 years, a fine of not more than $300,000, or both. If any person commits such a violation after one or more prior offenses, as defined in RSA 318-B:27, such person may be sentenced to a term of imprisonment of not more than 40 years, a fine of not more than $500,000, or both.

VIII. Any person who knowingly or purposely obtains or purchases (1) any substance which he represents to be a controlled drug or controlled drug analog, or (2) any preparation containing a substance which he represents to be a controlled drug or controlled drug analog, except as authorized in this chapter, shall be guilty of a misdemeanor. If any person commits such a violation after one or more prior offenses as defined in RSA 318-B:27, such person shall be guilty of a class B felony.

IX. Any person who manufactures, sells, or dispenses methamphetamine, lysergic acid, diethylamide phencyclidine (PCP) or any other controlled drug classified in schedules I or II, or any controlled drug analog thereof, in violation of RSA 318-B:2, I or I-a, is strictly liable for a death which results from the injection, inhalation or ingestion of that substance, and may be sentenced to imprisonment for life or for such term as the court may order. For purposes of this section, the person's act of manufacturing, dispensing, or selling a substance is the cause of a death when:

(a) The injection, inhalation or ingestion of the substance is an antecedent but for which the death would not have occurred; and

(b) The death was not:

(1) Too remote in its occurrence as to have just bearing on the person's liability; or

(2) Too dependent upon conduct of another person which was unrelated to the injection, inhalation or ingestion of the substance or its effect, as to have a just

bearing on the person's liability. It shall not be a defense to a prosecution under this section that the decedent contributed to his own death by his purposeful, knowing, reckless or negligent injection, inhalation or ingestion of the substance or by his consenting to the administration of the substance by another. Nothing in this section shall be construed to preclude or limit any prosecution for homicide. A conviction arising under this section shall not merge with a conviction of one as a drug enterprise leader or for any other offense defined in this chapter.

IX-a. A qualifying patient or designated caregiver as defined in RSA 126-X:1 who sells cannabis to a person who is not a qualifying patient or a designated caregiver shall be guilty of a class B felony and shall be sentenced to a maximum term of imprisonment of not more than 7 years, a fine of not more than $300,000, or both.

X. Any penalty imposed for violation of this chapter shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

XI. Any person who violates any provision of this chapter for which a penalty is not provided by paragraphs I through IX shall be guilty of a class B felony if a natural person, or guilty of a felony if any other person.

XII. The penalty categories set forth in this section based upon the weight of the drug involved are material elements of the offense; however, the culpability requirement shall not apply to that element of the offense.

XIII. Any person who violates any provision of this chapter shall be fined a minimum of $350 for a first offense and $500 for a second or subsequent offense, except that any person who violates the provisions of RSA 318-B:26, II(c) or RSA 318-B:26, II(d) shall be fined $350. This paragraph shall not apply to violations of RSA 318-B:2-c.

RSA 332-B:1-a. New Hampshire Veterinary Practice Act. Purpose

The purpose of the board of veterinary medicine is to promote public health, safety, and welfare by safeguarding the people of New Hampshire against incompetent, unscrupulous, and unauthorized persons and from unprofessional or illegal practices by persons licensed to practice veterinary medicine. The right to practice veterinary medicine is a privilege granted by legislative authority to persons possessing personal and professional qualifications specified in this chapter.

RSA 332-B:3, IV. New Hampshire Veterinary Practice Act. Compensation

The board [of Veterinary Medicine] shall be an administratively attached agency, under RSA 21-G:10, to the department of agriculture, markets, and food.

RSA 332-B:14. New Hampshire Veterinary Practice Act. Disciplinary Action; Civil Penalty

I. The board may undertake disciplinary proceedings:

(a) Upon its own initiative; or

(b) Upon written complaint of any person which charges that a person licensed by the board has committed misconduct under paragraph II and which specifies the grounds therefor.

II. Misconduct sufficient to support disciplinary proceedings under this section shall include:

(a) The practice of fraud or deceit in procuring or attempting to procure a license to practice under this chapter;

(b) Conviction of a felony or any offense involving moral turpitude;

(c) Any unprofessional conduct, or dishonorable conduct unworthy of, and affecting the practice of, the profession;

(d) Unfitness or incompetency to practice the profession or any particular aspect or specialty thereof as evidenced by negligent or willful acts performed in a manner inconsistent with the health or safety of animals under the care of the licensee, the intentional injury of an animal or human in a context related to the profession, or a pattern of conduct inconsistent with the basic skills and knowledge required to practice the profession;

(e) Addiction to the use of alcohol or other habit-forming drugs to a degree which renders the person unfit to practice under this chapter;

(f) Mental or physical incompetency to practice under this chapter;

(g) Willful or repeated violation of the provisions of this chapter;

(h) Suspension or revocation of a license, similar to one issued under this chapter, in another jurisdiction and not reinstated;

(i) The use of advertising or solicitation which is false, misleading, or fraudulent or is otherwise deemed unprofessional under rules adopted by the board;

(j) Having professional association with or employing any person practicing veterinary medicine unlawfully;

(k) Fraud or dishonesty in the application or reporting of any test disease in animals;

(l) Failure to keep the veterinary premises and equipment in a safe, clean, and sanitary condition;

(m) Failure to report as required by law, or making false report of any contagious or infectious disease;

(n) Dishonesty or gross negligence in the inspection of foodstuffs, maintenance of medical records, or the issuance of health, vaccination, or inspection certificates; or

(o) [Repealed.]

(p) Unprofessional conduct as defined in rules adopted by the board.

III. The board may take disciplinary action in any one or more of the following ways:

(a) By reprimand;

(b) By suspension, limitation, or restriction of license;

(c) By revocation of license;

(d) By requiring the person to participate in a program of continuing education in the area or areas in which the person has been found deficient; or

(e) By the imposition of civil penalties of up to $2,000 per violation, or in the case of continuing violations, not more than $200 per day, whichever is greater.

I. The board may informally dispose of any complaint by stipulation, agreed settlement, consent order or default. The board may hold preliminary hearings to facilitate the informal disposition of complaints which, during the preliminary hearing, are found to be unwarranted or unjustified. The board shall follow the provisions of RSA 541-A:31, V in conducting such hearings. All such investigations and preliminary hearings shall be confidential and exempt from the provisions of RSA 91-A, provided that the board shall make public any action taken under RSA332-B:14, III resulting from a preliminary hearing or investigation.

APPENDIX E

New Hampshire Board of Veterinary Medicine
Report of Clinic Inspection
9 A.M. 9 September 2016

Veterinarian:

Sandra Brown DVM (SB)
MWV Mobile Veterinary Clinic PLLC
1513 NH Route 16
Conway NH 03818

Persons present:

David B Stowe DVM NH Board of Veterinary Medicine
Todd Flanagan APU Investigator
Sandra Brown DVM Owner of MMV Mobile Vet Clinic

This inspection was in accordance with the terms of the Settlement signed 28 September 2015 which ordered that SB's practice be subject to announced or unannounced inspections for a period of four years. This inspection was announced and scheduled well ahead of the date.

Upon arrival, SB was preparing medical records for inspection and she informed me that a client was due any minute to pick up a cat. With SB's permission, I left her in the reception area and Todd Flanagan and I went to the treatment area and began an inspection.

The very first items I found in the cabinets in the treatment area where 4 small containers of outdated

Sterile Water for Injection (2/16) (exhibit A1), a gallon of Lixotinic (11/13) (exhibitA2,4).

In the refrigerator, I found expired chemistry reagents (10/11, 2/11) (exhibit B3). SB stated she "doesn't use that machine anymore". I did not examine her chemistry equipment to confirm whether or not she had equipment or whether it used these reagents. I found no other reagents in the refrigerator. I also found clearly marked medications that indicated they were expired (exhibit B1); but I also found several outdated drugs that were not marked expired (exhibit B1, C1: C2,4: C3,B2).

In the pharmacy area, I found outdated drugs (D1,2) and a drug in a container where the expiration date was crossed off and another written (D3,4). There was a whole drawer full of outdated drugs (exhibits E,F). When asked about this large number of outdated drugs, her response was that when clients couldn't afford drugs, she gave them the outdated drugs.

On the counter in the pharmacy was a prescription of Tramadol (exhibit F1,2), a Schedule IV controlled substance. When asked why it was sitting on the counter, SB said it was leftover from her last appointment the day before. SB had prescribed the drug; but left before the client was discharged because she had a house call. The prescription was left to be dispensed by the support staff; but the client declined the prescription, so the bottle sat on the counter, unsecured, all night.

The controlled substance "safe" is a home-made wooden box with a hinged door with a pad locked hasp;

but the hasp is attached in such a way that it could easily be removed with a Phillips head screw driver, the contents of the safe tampered with and the lock mechanism replaced without detection. I commented on this during the previous inspection and recommended that it be fixed.

Inside the safe was a bottle marked Tram (exhibit F3, G1) which contained several doses of Tramadol (presumably; but confirmed by SB). There was no expiration date or lot number on the bottle. There were also two bottles of Tramadol, a thousand count bottle that had been opened and an unopened thousand count bottle. When I asked how often SB did an inventory of her controlled substances, she answered monthly. No inventory records were examined. In the safe were two containers of outdated drugs in a plastic baggie.

Her practice van was parked outside in the shade. At approximately 10 A.M. the thermometer in the van read over 80 degrees. Inside the van were numerous outdated drugs (exhibits H,I,J) in the various bins that SB uses to transport her inventory and a cardboard box of outdated drugs sequestered behind some equipment (exhibit I3). Included in the van were several containers of compounded (Wedgewood Pharmacy) phenylbutazone, one bottle marked expired. In NH, compounded drugs must be sent from the compounding pharmacy to the client. Compounded drugs cannot be obtained from a pharmacy and then dispensed by a practitioner unless the practitioner is a distributor.

In the truck was a large bottle of Dextrose (J2) which expired 5/14 but had a pierced date of 8/22/16. During my last visit, I informed SB that because of the

nature of Dextrose (a sugar), these containers are considered single use. Outdated Dextrose should never be administered.

In reviewing medical records, I found a patient for whom SB had prescribed Tramadol as a sedative for grooming (exhibit K-N). The prescription read to administer 1/4 tablet weekly and she dispensed 10 tablets. Tramadol, a controlled substance, can only be dispensed for a period of one week and yet she had dispensed 40 weeks worth of medication. When I asked her how long it can prescribed for, she correctly answered one week; but said it would be unreasonable to make the client return weekly to refill the prescription. When I asked her why she didn't write a prescription, a legitimate and legal alternative, she had no response.

When reviewing a record for a dental procedure (exhibits O,P) she had performed, I asked SB where the presurgical exam was documented. She indicated that a line on the anesthetic monitoring form where the patient's temperature, heart rate, respiratory rate, mucous membrane color and capillary refill time was recorded, was her presurgical exam. Physical exams should be recorded in a "SOAP" format indicating more than the few parameters she had recorded. The anesthetic log had 4 lines filled out representing the monitoring of the patient over a two hour period. The standard of care is to check vitals every 5 to 10 minutes, which should have resulted in no less than approximately 12 entries in the log.

(Exhibits T, U) were for a cat being spayed. Again the presurgical exam is not in a SOAP format and is only a single line entry on the surgical monitoring form.

"Jasper" [redacted] (exhibit Q) was a cat that presented for ear problems and itching. A Depo (injection) was administered; but, no notation was made to indicate there was a discussion of the potential side effects of Depo, of which there are serious potential side effects.

(Exhibits Rand S) The [redacted] dogs which presented for Wellness exams and both were febrile. Dr. Brown's explanation was the dogs were excitable and presumably not sick; however, there was no notation that this was discussed.

The very large number of outdated drugs and Dr. Brown's repeated stance that dispensing out dated drugs to clients who cannot afford first line care is disturbing and hasn't changed since the first clinic inspection in May. It is my opinion that Dr. Brown shows no regard for the standards set forth by the Licensing Board.

APPENDIX F

New Hampshire Board of Veterinary Medicine
Report of Clinic Inspection
10 AM 22 December 2016

Registrant:

Dr. Sandra Brown
MWV Mobile Veterinary Clinic
1513 Route 16
Conway NH 03818

Inspectors:

David B Stowe DVM NH Board of Veterinary Medicine
Todd Flanagan, APU Investigator

This was an unannounced inspection. Since Dr. Brown signed a settlement with the Board in September 2015, this was the third inspection (the others being in May 2016 and September 2016). Following our last inspection, the Board of Pharmacy had visited the facility in October. The BOP's inspection had significantly differed from our last inspection. The purpose of this inspection was to stay on schedule and to see if Dr. Brown had corrected previous deficiencies prior to the scheduled hearing in January of 2017.

When Todd Flanagan and I arrived, Dr. Brown was in an appointment. She emerged from the exam room twenty minutes after our arrival and when we explained that we were there to perform an

unannounced inspection, she insisted we wait until she contacted her lawyers. At 11 AM after she had not been able to speak with her attorneys, she agreed to allow our inspection.

Because Dr. Brown needed to leave immediately on a farm call, I did a quick inspection of the farm vehicle. As in previous inspections there were many out dated drugs, containers whose expiration dates had worn off and were illegible and several containers of compounded drugs (Phenylbutazone) from Wingate Pharmacy, a veterinary compounding pharmacy, all out of date.

After Dr. Brown left on her farm call, Todd and I were left with two of her staff members who cooperated with our inspection. In the prep area we found numerous outdated drugs and chemistry reagents. In the pharmacy area, we found a drawer full of outdated drugs as we had found previously (see photos).

Included in the pharmacy drawer, with the outdated drugs, was a form titled "Waiver for Dispensing Expired Medications".

I asked the support staff for the records from the preceding ten outpatient appointments and five or six of her most recent surgery cases.

In the medical record for "Chewy" Flaherty, there is a prescription for Tramadol that was dispensed. The prescription reads 1 TID prn po (40), which indicates the patient was to receive one tablet three times daily as needed. Tramadol is a controlled substance and can only be dispensed for a seven day period, which in this case would be twenty one tablets. Dispensing 40 tablets

is a violation which was addressed in another case during the previous inspection.

"Lucy" Cronin is a geriatric feline patient who was examined September 29th and returned for dental surgery October 11th. There is no record of a presurgical examination, a deficiency we had discussed at my last visit in September.

"Tobie" Cretien, an Australian Shepard (dob 10/5/2003) was seen September 19th and admitted for surgery on the 22nd. According to the medical records, the patient was given 62.5 mg Acepromazine orally at home two hours prior to arriving at the hospital. At the hospital, he was administered additional Acepromazine and Butorphanol and Atropine as a premed. There is no presurgical examination recorded and no notation documenting the effect of the orally administered Acepromazine. The patient arrested within 7 minutes of being induced with Propofol.

The oral dose of Acepromazine he received was 2.2 mg/kg which is the high end of the dose for his weight; but the record notes his BCS was 7.5/9, indicating he was overweight. If he were dosed based on lean body weight, the Acepromazine dose he received would be above the high end of the dosage range.

A review of *Plumb's Veterinary Drug Handbook* (8th Edition) states "Anecdotal dosage recommendations vary widely, but generally are similar to the labeled dosage range of 0.55 - 2.2 mg/kg, although some think that dosages at the higher end of this range are too high." In the Contraindications section, it says ""Dogs with MDRI mutations (many Collies, Australian

Shepards, etc.) may develop a more pronounced sedation that persists longer than normal." "In geriatric patients, very low doses have been associated with prolonged effects of the drug." Under Adverse Effects, it states "Cardiovascular collapse (secondary to bradycardia and hypotension) has been described in all major species. Dogs may be more sensitive to these effects than other animals."

The drug log was photocopied to support the case mentioned above (Chewy Flaherty); but also because there is evidence of the Tamadol being taken out of hospital inventory and moved into the van. The van was not locked when I inspected it.

During the inspection the temperature of the van was 48 degrees F. Ivermectin, Oxytetracycline and Atropine all present in the van, are labeled for storage between 15 and 30 degrees C (59 and 86 F).

APPENDIX G

STATE OF NEW HAMPSHIRE
BOARD OF PHARMACY PRACTITIONER / CLINIC
INSPECTION REPORT
February 24, 2014

[*Fold-out Exhibit, see next page*]

EXHIBIT 15

EXHIBIT A

PENGAD 800-631-6989

STATE OF NEW HAMPSHIRE
BOARD OF PHARMACY
PRACTITIONER / CLINIC INSPECTION REPORT

[redacted] 121 SOUTH FRUIT ST
Concord, NH 03301
271-2350

(MWV)

Site: Mt. Washington Valley Mobile Vet. Clinic
Practitioner:
Street: 513 Route 16
City: Conway District: 003

Date 2/24/14 Time: 11:00 AM
Tel. #: 447-8311 Spec.: general
P.I.C.: Dr. Sandra Brown
Clinic ☐ Private Office ☑ Walk-In ☐
Group Practice ☐ Other:
Office Contact Person: Regina Chapman receptionist Title
DEA # BB6481561 Exp. Date 7/31/14
Other Practitioners @ This Location:

FULL NAME	PROF.	DEA#

GENERAL FACILITY	S	U	N/I
1. Drugs Secure From Patient Access:	✓		
2. C/S On Premises: Samples ☐ Stock ☑			
3. Non C/S On Premises: Samples ☐ Stock ☑			
4. C/S Locked (CFR 1301.75) Yes ☑ No ☐			
5. Excessive Outdated Stock Yes ☐ No ☑			
6. Drug Destruction Done Yes ☐ No ☑			
7. Person In Charge of Security: Dr. Brown			
8. Prepackaging Done Yes ☐ No ☑			
9. Check by Whom: N/A			
10. Packaging Conforming			
11. Label Conforming (318-B:13, III)			
12. C/S Dispensed ☐ Admin ☑	✓		
13. Non C/S Dispensed ☐ Admin ☑	✓		
14. Rx Pads (General) Secure EMR	✓		
15. Drugs Purchased Where: M: Penn Vet Supply, Ft. Dodge wingates			

EXAM ROOM(S)	S	U	N/I
16. Drugs Present C/S ☐ Non C/S ☑ For: Admin ☑ Disp. ☐	✓		
17. RX Pads Present: Yes ☐ No ☑ Secure: Yes ☑ No ☐	✓		
CONTROLLED DRUG RECORDS			
18. C/S Present: C II ☐ C III – V ☑			
19. C II Purchase Records Separate N/A			
20. Complete ☐ Readily Retrievable ☐ CFR 1304.04(l) N/A			
21. C III – IV Purchase Records Separate	✓		
22. Readily Retrievable CFR 1304.04(l)	✓		
23. Correct Recording of C/S Dispensed	✓		
24. Log Separate From Pt. Records (318-B:12)	✓		
25. C/S Dispensed Within Limits (318-B:10)	✓		
26. C/S Emergency Disp. Only (318-B:10)	✓		
27. Drugs Dispensed By: (318:12) Physician ☑ Nurse ☐ ARNP ☐ PAC ☐	✓		
28. Person In Charge of Dispensing Records: Adam Gowther vet tech	✓		
29. Person In Charge of Purchase Records: Adam Crowther	✓		
30. Biennial Inventory Done: Yes ☑ No ☐			
31. Date of Inventory: 5/1/13			
32. C/S Audit Done: Yes ☐ No ☑			
33. Theft or Loss of C/S In Last 12 Mo.: Yes ☐ No ☑			
34. Theft or Loss Reported Yes ☐ No ☑			
35. C/S Inventory Shared: Yes ☐ No ☑			
36. Has Effort Been Made to Comply With Any Previous Deficiencies N/A Yes ☐ No ☐			
37. Violation Notice Issued Yes ☐ No ☑			

COMMENTS & RECOMMENDATIONS

24) c/s Dispensing log should have STREET ADDRESS if client
Be sure to STORE c/s (in BOX) AT CLINIC, NOT IN MOBILE UNIT. Suggestion: store box in clinic at night
Label your MDV of Lidocaine when you enter vial; Good for 28 DAYS.

(ATTACH BUSINESS CARD)

The foregoing may not serve as a defense in any regulatory, civil, or criminal proceeding.

S = Satisfactory U = Unsatisfactory
N/I = Needs Improvement

This Inspection Report has been explained to me and I understand what corrections must be made to comply therewith.

2/24/14 — Date — [redacted] — Authorized Person

12:35pm — Time — Roberta Elder RPh — Compliance Investigator

COMMENTS →

11504 (Rev. 8/88)

~~3349~~ BB

33

1) Question of suitable drug potency of medicines stored in mobile unit

   a) in summer, Dr. Brown keeps windows open; travels with A/C on

   b) in winter, Dr. Brown keeps mobile unit in a heated garage
      RECOMMENDATION: obtain a thermometer and MONITOR temperatures within mobile unit.

2) Dr. Brown states that the tablets for small animal use are rotated out of the mobile unit into the clinic, ON A MONTHLY BASIS. These medicines are then used IN the clinic until expired.

MWV Mobile Veterinary Clinic , PLLC

Sandy Brown, DVM
Veterinarian

www.mwvmobilevet.com
Bringing compassionate veterinary care to your home.

MWV Mobile Vet
1513 NH Rt 16
Conway, NH 03818

Phone: (603) 447-8311
Fax: (603) 447-8313
vet@mwvmobilevet.com

NOTICE OF INSPECTION

[SEAL] State of New Hampshire
Board of Pharmacy
121 South Pruit Street
Concord, NH 03301-2412

(Office - (603) 271-2350)
(Fax - (603) 271-2858)

Facility: MWV ~~Mt. Washington, Valley~~ Mobile Veterinary Clinic

Street: 1513 Route 16

City: Conway Zip: 03818

District 003 Pharmacy [ ] Practitioner [✓] Institution [ ] Home Infusion [ ] LTC Facility [ ] Other: _____

Date: 2/24/14 Time: 11:00 AM

PURPOSE OF INSPECTION

Routine [✓] Complaint [ ] Follow-up [ ] Other: _____

This is to acknowledge that New Hampshire Board of Pharmacy Inspector/Investigator, Robert D. Elder, R.Ph., has identified him/herself by presentation of official credentials. Pursuant to the provisions of RSA 318:8, RSA 318:8-a of the New Hampshire Pharmacy Act and RSA 318:B:25 of the New Hampshire Controlled Drug Act, I hereby grant permission for the aforementioned agent to inspect any and all of the records relative to the receipt, distribution and security of legend drugs at

this location. This also includes records which are required pursuant to the provisions of 21 CFR part 1300 to end, of the Federal Controlled Substance Act. This inspection also addresses any other standards of practice issues outlined by other health care regulatory agencies, which these agents are charged to enforce. By any signature, I hereby acknowledge the receipt of this Notice of Inspection and certify that:

1. I am the owner, for the above described location;
2. I have read this Notice of Inspection and understand its contents and purpose;
3. I have the authority to act in this matter and have signed this Notice of Inspection pursuant to my authority;
4. I have been provided with the purpose of this Notice of Inspection but, fully realize that the scope of this inspection may encompass ALL of the records required pursuant to the aforementioned Acts or Board rules;
5. I have voluntarily consented to this inspection.

Signature: /s/Sandra Brown Date: 2/24/14
(Print): Sandra Brown

Board Agent: /s/Robert D. Elder, R.Ph., C.I. Date: 2/24/14
(Print): Robert D. Elder, R.Ph., C.I. Ph 500 (Rev. 10/96)
Pursuant to RSA 547-A:31,II, failure to allow access to the aforementioned records, could result in disciplinary sanctions

On February 24, 2014 James Queenan R.Ph. MBA, a new compliance inspector, accompanied senior inspector Robert Elder R.Ph. to MVW-Mobile Veterinary Clinic located at 1513 NH Route 16 Conway, New Hampshire 03818 for an unannounced routine veterinary inspection. Since I am the new compliance inspector, Robert Elder took the lead during the inspection. We were immediately introduced to Dr. Sandra Brown the Veterinarian and owner of the clinic. She informed us that she was just back from vacation and was accommodating during the inspection.

There are two "locations" for this type of practice. There is a standard office with a reception desk, waiting room, exam rooms, med room, procedure room, and locked control mediation box. The "second" location is a van that not only transports the practitioner but also supplies, equipment and medication for home or farm veterinary treatment.

During the inspection, Robert Elder and I noted the following concerns:

1.) There is a metal box that has a key and lock that is used to contain the controlled substances. The box is portable. The box was found in the clinic "vehicle" a van. The van is parked outside the clinic in an outside driveway during office hours or on sight during veterinary visit at various locations throughout the state and at Dr. Brown's residence after hours in a heated garage. The garage was not examined or viewed. Compliance Officer Elder addressed and noted that the control box needs to be stored in the

clinic which is the licensed DEA approved area when not in use. Important to note: Dr. Brown will receive emergency calls during non-office hours. Storage of controls at the office clinic would require Dr. Brown during an emergency to leave her residence, go the clinic to pick up controls, proceed to the client, after treatment return controls to the clinic and then return to her residence. Dr Brown lives 15 minutes from her office.

2.) Non-controls are also stored in the van during extended periods of time exposed to outside weather conditions. On February 24, at 11:00 AM the temperature outside the van in Conway N.H. was 29 degrees Fahrenheit. Dr. Brown does not use a thermometer to evaluate temperature within the van. Dr. Brown noted that the drugs in the van tend to "turn-over" quickly or they are rotated out of the van on a monthly basis and returned to the clinic. Important to note: Drugs stored in extreme temperatures especially temperature outside the manufacturer recommended storage range are prone to premature degradation; decomposition, chemical alteration and adulteration.

3.) Product exposed under extreme light conditions can produce deterioration of the package labeling. Product name, strengths, lot, expiration, National Drug Code and storage requirements should always be easily readable before a manufacturer's product is used. (see attached photos)

4.) The control substance log is approximately a 4 inch X 6 inch bound ledger that has pages divided into columns with segregated pages for specific drug, strength and dosage form. The columns contained the date; name of client, town, quantity used and balance remaining. The ledger did not list the street address of the client which is a legal requirement.

5.) The van did not possess temperature control features, such as propane heaters, as are found in Recreation Vehicles that are converted for medical use.

APPENDIX H

NEW HAMPSHIRE BOARD OF PHARMACY
PRACTITIONER/CLINIC INSPECTION REPORT
August 13, 2014

[*Fold-out Exhibit, see next page*]

New Hampshire Board of Pharmacy

Practitioner/Clinic Inspection Report
121 South Fruit Street
Concord, NH 03301-2412
(603) 271-2350

Site: MWV Mobile Vet Clinic
Practitioner: Sandra Brown
Street: 1513 Route 16
City: Conway Zip: 03818 District: 11
Date: 8/13/14 Time: 10:10AM
Tel #: 447-8311 Spec:
P.I.C:
☐Clinic ☒Private Office ☐Walk-In
☐Group Practice ☐Other:
Office Contact Person: Title:
DEA#: BB6481661 Exp. Date: 7/31/17
Other Practitioners at this location:

FULL NAME	PROF	DEA#

General Facility	S	U	N/I
1. Drugs Secure From Patient Access:	☒	☐	☐
2. C/S On Premise:	☐N/A ☐Samples ☒Stock		
3. Non C/S on Premise:	☐N/A ☐Samples ☒Stock		
4. C/S locked	☐N/A ☒Yes ☐No		
5. Excessive Outdated Stock	☐N/A ☒Yes ☐No		
6. Drug Destruction Done	☐N/A ☐Yes ☒No		
7. Person in Charge of Security: Sandra Brown			
8. Prepackaging Done	☐N/A ☒Yes ☐No		
9. Check why Whom: Dr. Brown	☐N/A		
10. Packaging Conforming	☐	☐	☒
11. Label Conforming (318-B:13,III)	☒	☐	☐
12. C/S Dispensed ☐ Admin ☒	☒	☐	☐
13. Non C/S Dispensed ☒ Admin ☒	☒	☐	☐
14. Rx Pads (General) Secure	☒	☐	☐
15. Drugs Purchased Where: Wingates, Ft Dodge, MWI Pen Vet Supply	☒	☐	☐
Exam Room(s)			
16. Drug Present ☐C/S ☐Non C/S For ☐Admin ☐Disp.	☑	☐	☐
17. Rx Pads Present: Electronic	☐Yes ☒No		
Secure:	☒Yes ☐No		

CONTROLLED DRUG RECORDS	S	U	N/I
18. C/S Present ☐CII ☒CIII-V	☑	☐	☐
19. CII Purchase Records Separate	~~☐~~	~~☐~~	~~☐~~
20. Complete ☐ ☐Readily Retrievable CFR 1304.04 (g)	~~☐~~	~~☐~~	~~☐~~
21. CIII-IV Purchase Records Separate	☒	☐	☐
22. Readily Retrievable CFR 1304.04(g)	☒	☐	☐
23. Correct Recording of C/S Dispensed	☒	☐	☐
24. Log Separate From Pt. Records (318-B:12)	☒	☐	☐
25. C/S Dispensed Within Limits (318-B:10)	☒	☐	☐
26. C/S Emergency Disp. Only (318-B:10)	☒	☐	☐
27. Drug Dispensed By: (318:42) ☒ Physician ☐ Nurse ☐ARNP ☐ PAC	☒	☐	☐
28. Person in Charge of Dispensing Records: Dr. Brown	☒	☐	☐
29. Person in Charge of Purchase Records: Dr. Brown	☒	☐	☐
30. Biennial Inventory Done	☒Yes ☐No		
31. Date of Inventory:	☒	☐	☐
32. C/S Audit Done ☐Yes ☒No	☐	☐	☐
33. Theft or Loss Reported	☐Yes ☒No		
34. Theft or Lose Reported	☐Yes ☒No		
35. C/S Inventory Shared	☐Yes ☒No		
36. Has Effect Been Made to Comply With Any Previous Deficiencies	☒Yes ☐No		
37. Violation Notice Issued	☐Yes ☒No		

Comment & Recommendations

Some Expired Meds Mix with Inventory
Discussed Compound Rx's for Office Use Only
Drawer full of Expired Meds These are not used
Some Expired Meds in Treatment area & Van
Should not re-use vials when dispensing
Add Header to Biennial Inv, Add Tramadol on 8/18/14

(Attach Business Card)

The foregoing may not serve as a defense in any regulatory, civil, or criminal proceeding:

S = Satisfactory U = Unsatisfactory
N/I= Need Improvements

This Inspection Report has been explained to me and I understand what corrections must be made to comply therewith

8/13/14 Date — Authorized Person

12:45 PM Time — Compliance Investigator

EXHIBIT 17

Rev 5/2014

~~0204~~ 21
38

NOTICE OF INSPECTION

NEW HAMPSHIRE BOARD OF PHARMACY
67 Regional Drive
Concord, NH 03301
(Office - (603) 271-2350)
(Fax - (603) 271-2858)

Facility: MWV Mobile Vet

Street: 1513 Route 16

City: Madison/Conway Zip:

District 11 Pharmacy [ ] Practitioner [✓] Institution [ ] Home Infusion [ ] LTC Facility [ ] Other: _____

Date: 8/13/14 Time: 11:00 AM

PURPOSE OF INSPECTION

Routine [ ] Complaint [ ] Follow-up [✓] Other: _____

This is to acknowledge that New Hampshire Board of Pharmacy Inspector/Investigator, Margaret A. Clifford, RPh, has identified him/herself by presentation of official credentials. Pursuant to the provisions of RSA 318:8, RSA 318:8-a of the New Hampshire Pharmacy Act and RSA 318-B:25 of the New Hampshire Controlled Drug Act, I hereby grant permission for the aforementioned agent to inspect any and all of the records relative to the receipt, distribution and security of legend drugs at this location. This also included records which are required pursuant to the provisions of 21 CFR part 1300 to end, of the Federal Controlled Substance

Act. This inspection also addresses any other standards of practice issues outlined by other health care regulatory agencies, which these agents are charged to enforce. By my signature, I hereby acknowledge the receipt of this Notice of Inspection and certify that:

1. I am the _____, for the above described location;
2. I have read this Notice of Inspection and understand its contents and purpose;
3. I have the authority to act in this matter and have signed this Notice of Inspection pursuant to my authority;
4. I have been provided with the purpose of this Notice of Inspection but, fully realize that the scope of this inspection may encompass ALL of the records required pursuant to the aforementioned Acts or Board rules;
5. I have voluntarily consented to this inspection.

Signature: /s/Sandra Brown Date: 8-13-14
(Print): Sandra Brown

Board Agent: /s/Margaret A. Clifford Date: 8/13/14
(Print): Margaret A. Clifford, RPh Ph 500 (Rev. 10/96)
Pursuant to RSA 547-A:31,II, failure to allow access to the aforementioned records, could result in disciplinary sanctions

Addendum to Inspection Report of MWV Mobile Vet
8-13-14

The Board of Pharmacy conducted a follow-up inspection of MWV Mobile Vet Clinic, see attached inspection report. It appears that Dr. Brown has made some improvements since our first visit in June of 2013. In a letter dated September 19, 2013, Compliance Investigator Elder reported to you an apparent lack of cooperation on Dr. Brown's part in complying with our inspection. CI Elder also mentioned that Dr. Brown's records of receipt and distribution were in disarray and concerns over outdated medications. Also on the first visit it was extremely warm in the medication room. We did not have a thermometer with us on the first visit. Yesterday I did have a thermometer with me and the temperature in the room was 76 degrees which is acceptable.

During my inspection yesterday, I found Dr. Brown to be cooperative, professional and courteous. In the medication room I found both a DEA Binder and a Controlled Substance record book. I was able to readily retrieve records of receipt and distribution. This was a marked improvement over our first visit last year when the records could not be found. In addition to having her records readily retrievable, Dr. Brown was prepared for the scheduling change of Tramadol coming up on August 18. There was a note hanging on the shelf reminding her and staff about the change that was effective on the 18th of this month. I discussed with her Technician Gina, how to add tramadol to the Biennial Inventory.

I did find some out dated medications both in the Van and in the medication room, however the majority of the outdated meds were quarantined in a single drawer within the med room. I did discuss with Dr. Brown the few meds that I found in the "stock" area, I believe that there, were only three in the medication room that were not quarantined and three in the Van. Additional outdated stock was observed in the treatment area connected to the OR and in the locked Controlled Substance boxes. The outdated meds in the Controlled substance lock boxes were clearly marked as outdated.

Dr. Brown and I discussed the outdated medication, she confirmed that the drawer I found is her quarantined area and that the medications there are not used. Dr. Brown indicated that she would only use an outdated medication in an emergency situation.

While looking at the medications stored in the Van, I did notice that Dr. Brown has added a thermometer for monitoring temperature. Dr. Brown maintains that the van is garaged in a temperature controlled environment when parked at her house. We did not discuss the issue yesterday but I would still be concerned about the temperatures inside the van when the vehicle is not parked in the garage. Again, we did not discuss this yesterday, but a better solution for keeping the medications in a controlled environment would be to have a wheeled cart that could be transported from the clinic to the van when she needed to go out on a call.

In the van there is a tote that is labeled Dispensing Vials. Most of the vials in this tote appear to have been previously used. Dr. Brown and I discussed the fact

that vials should not be reused because of cross contamination and possible allergic reactions to medications that were previously in the vial. Dr. Brown stated that when she does re-use vials she washes them out first.

The only other observation that I would add is that it appears the medication room may double as a kitchen. I did not get a chance to discuss this observation with Dr. Brown. What I observed was a oloset that contained food and a toaster oven and Microwave on the counter. This may not be an issue as there were no d rugs stored in with the food and no food in the drug storage area.

Margaret A . Clifford

APPENDIX I

NEW HAMPSHIRE BOARD OF PHARMACY
PRACTITIONER/CLINIC INSPECTION REPORT
October 18, 2016

[*Fold-out Exhibit, see next page*]

New Hampshire Board of Pharmacy

Practitioner/Clinic Inspection Report

121 South Fruit Street
Concord, NH 03301-2412
(603) 271-2350

RAE

Site: MWV Mobile Veterinary Clinic

Practitioner: Dr. Sandra Brown

Street: 1513 N.H. Route 16 011

City: Conway Zip: 03818 District: ~~003~~

Date: 10/18/16 Time: 9:00 a.m.

Tel #: 447-8311 Spec: general

P.I.C:

☐Clinic ☒Private Office ☐Walk-in

☐Group Practice ☐Other:

Office Contact Person: Title:

DEA#: BB6481561 Exp. Date: 7/31/2017

Other Practitioners at this location:

FULL NAME	PROF	DEA#

General Facility	S	U	N/I
Drugs Secure From Patient Access:	☒	☐	☐
2. C/S On Premise:	☐N/A ☐Samples ☒Stock		
3. Non C/S on Premise:	☐N/A ☐Samples ☒Stock		
4. C/S locked	☐N/A ☒Yes ☐No		
5. Excessive Outdated Stock	☐N/A ☐Yes ☒No		
6. Drug Destruction Done	☐N/A ☐Yes ☒No		
7. Person in Charge of Security	Dr. Brown		
8. Prepackaging Done	☐N/A ☐Yes ☒No		
9. Check why Whom:	☒N/A		
10. Packaging Conforming	☐	☐	☒
11. Label Conforming (318-B:13,III)	☐	☐	☐
12. C/S Dispensed ☒ Admin ☒	☒	☐	☐
13. Non C/S Dispensed ☒ Admin ☒	☒	☐	☐
14. Rx Pads (General) Secure	☒	☐	☐
15. Drugs Purchased Where: MWI, Midwest, Wedgwood	☑	☐	☐

Exam Room(s)			
16. Drug Present ☐C/S ☒Non C/S For ☒Admin ☐Disp.	☒	☐	☐
17. Rx Pads Present:	☐Yes ☒No		
Secure:	☒Yes ☐No		

CONTROLLED DRUG RECORDS	S	U	N/I
18. C/S Present ☐CII ☒CIII-V	☐	☐	☐
19. CII Purchase Records Separate N/A	☐	☐	☐
20. Complete ☐ ☐Readily Retrievable CFR 1304.04 (g) N/A	☐	☐	☐
21. CIII-IV Purchase Records Separate	☒	☐	☐
22. Readily Retrievable CFR 1304.04(g)	☒	☐	☐
23. Correct Recording of C/S Dispensed	☒	☐	☐
24. Log Separate From Pt. Records (318-B:12)	☒	☐	☐
25.C/S Dispensed Within Limits (318-B:10)	☒	☐	☐
26. C/S Emergency Disp. Only (318-B:10)	☒	☐	☐
27. Drug Dispensed By: (318:42) ☒ Physician ☐ Nurse ☐ARNP ☐ PAC	☒	☐	☐
28. Person in Charge of Dispensing Records: Dr. Brown	☒	☐	☐
29. Person in Charge of Purchase Records: Dr. Brown	☒	☐	☐
30. Biennial Inventory Done	☒Yes ☐No		
31. Date of Inventory:	☒	☐	☐
32. C/S Audit Done ☐Yes ☒No	☐	☐	☐
33. Theft or Loss Reported	☐Yes ☒No		
34. Theft or Loss Reported	~~☐Yes~~ ☐No		
35. C/S Inventory Shared	☐Yes ☒No		
36. Has Effect Been Made to Comply With Any Previous Deficiencies	☒Yes ☐No		
37. Violation Notice Issued	☐Yes ☒No		

Comment & Recommendations

Recommend a sturdier cabinet door for C/S storage, OR install a lock on a drawer to store C/S meds in. This still needs improvement.

Biennial Inventory: 5/1/2015

Thermometer
Are Thermostat has been placed in the Van; recommend logging temperatures for BOTH Van and clinic refrigerator.

(Attach Business Card)

The foregoing may not serve as a defense in any regulatory, civil, or criminal proceeding:

S = Satisfactory U = Unsatisfactory
N/I= Need Improvements

This Inspection Report has been explained to me and I understand what corrections must be made to comply therewith

10/18/16 Date — Authorized Person

11:30 AM Time — Compliance Investigator

Rev 5/2014

~~0207~~ 41

EX 13 0002

NOTICE OF INSPECTION

[SEAL] State of New Hampshire
Board of Pharmacy
121 South Fruit Street
Concord, NH 03301-2412
(Office - (603) 271-2350)
(Fax - (603) 271-2858)

Facility: MWV Mobile Vet

Street: 1513 N.H. Route 16

City: Conway Zip: 03818

District 003 Pharmacy [ ] Practitioner [✓] Institution [ ] Home Infusion [ ] LTC Facility [ ] Other: _____

Date: 10/18/16 Time: 9:00 AM

PURPOSE OF INSPECTION

Routine [✓] Complaint [ ] Follow-up [ ] Other: _____

This is to acknowledge that New Hampshire Board of Pharmacy Inspector/Investigator, Robert D. Elder, R.Ph., has identified him/herself by presentation of official credentials. Pursuant to the provisions of RSA 318:8, RSA 318:8-a of the New Hampshire Pharmacy Act and RSA 318-B:25 of the New Hampshire Controlled Drug Act, I hereby grant permission for the aforementioned agent to inspect any and all of the records relative to the receipt, distribution and security of legend drugs at this location. This also included records which are required pursuant to the provisions of 21 CFR part

1300 to end, of the Federal Controlled Substance Act. This inspection also addresses any other standards of practice issues outlined by other health care regulatory agencies, which these agents are charged to enforce. By any signature, I hereby acknowledge the receipt of this Notice of Inspection and certify that:

1. I am the owner of practice of, ~~for~~ the above described location;
2. I have read this Notice of Inspection and understand its contents and purpose;
3. I have the authority to act in this matter and have signed this Notice of Inspection pursuant to my authority;
4. I have been provided with the purpose of this Notice of Inspection but, fully realize that the scope of this inspection may encompass ALL of the records required pursuant to the aforementioned Acts or Board rules;
5. I have voluntarily consented to this inspection.

Signature: /s/Sandra Brown Date: 10-18-16
(Print): Sandra Brown

Board Agent: /s/Robert D. Elder, R.Ph., C.I. Date: 10/18/16
(Print): Robert D. Elder, R.Ph, C.I. Ph 500 (Rev. 10/96)
Pursuant to RSA 547-A:31,II, failure to allow access to the aforementioned records, could result in disciplinary sanctions

MWV Mobile Veterinary Clinic
1513 NH Rte 16
Conway, NH 03818-1031 603-447-8311
Sandy Brown, DVM #8341

[redacted] 10/18/2016

Ex.: 1/12/2017

Give _1_ tablets_2-3_ time(s) daily with food as needed for pain.
May cause drowsiness.
NDC 65162-0627-11 DOB

Tramadol 50mg Tablets #8341 (15 Tab)

Keep out of reach of children and pets. For veterinary use only.

Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed

MWV Mobile Veterinary Clinic
1513 NH Rte 16
Conway, NH 03818-1031 603-447-8311
Sandy Brown, DVM #6187

[redacted] 10/18/2016

Ex.:

Apply 1 drop twice daily for 4 days. Avoid bright light while pupil is dilated. Please call if not improving in 2-3 days, or worse (ie squinting) at any time.

No chare due to expiration date

Atropine Opthalmic Solution 1% 5ml #6187 (1 bottle)

Keep out of reach of children and pets. For veterinary use only.