

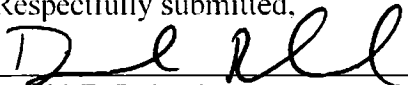
**IN THE CIRCUIT COURT OF CLINTON COUNTY  
STATE OF MISSOURI**

MISSOURI VETERINARY	)	
MEDICAL BOARD	)	
	)	
	)	Petitioner,
	)	
v.	)	
	)	
BROOKE RENE GRAY	)	Case No. 10CN-CV00842
	)	
And	)	
	)	
B & B EQUINE DENTISTRY	)	
	)	
	)	
Defendants.	)	

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Comes now Defendants Brooke Gray and B & B Equine Dentistry, by and through counsel and pursuant to Rule 74.04, and for the legal basis of Defendants' Motion for Summary Judgment state that Petitioner brought this action "in lieu of" and not "in addition to" the criminal penalties provided for by section 340.294, and thus has not complied with section 340.276, which Petitioner claimed as authority for its action against Defendants. Because the Petitioner has no legal authority to maintain this action, the Court should enter summary judgment in favor of the Defendants.

Respectfully submitted,

  
\_\_\_\_\_  
David E. Roland Mo. Bar #60548  
Freedom Center of Missouri  
5938 De Giverville Ave.  
St. Louis, MO 63112  
Phone: (314) 604-6621  
Fax: (314) 720-0989  
Email: dave@mofreedom.org

**ATTORNEY FOR DEFENDANTS BROOKE  
GRAY AND B & B EQUINE DENTISTRY**

**IN THE CIRCUIT COURT OF CLINTON COUNTY  
STATE OF MISSOURI**

MISSOURI VETERINARY	)	
MEDICAL BOARD	)	
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	)	Petitioner,
	)	
v.	)	
	)	
BROOKE RENE GRAY	)	Case No. 10CN-CV00842
	)	
and	)	
	)	
B & B EQUINE DENTISTRY	)	
	)	
	)	
	)	Defendants.

**DEFENDANTS' STATEMENT OF UNCONTROVERTED FACTS**

Come now Defendants and assert that the following facts are uncontroverted:

- 1) Petitioner, the Missouri Veterinary Medical Board (“MVMB” or “the Board”), is a government agency composed of six licensed veterinarians and one non-veterinarian public member. § 340.202, RSMo.
- 2) The Board brought this action on September 3, 2010, seeking preliminary and permanent injunctions against behaviors that the Board asserts would violate sections 340.200.28, 340.216.1, and 340.218, RSMo. MVMB Petition ¶¶ 7, 15-25.
- 3) Section 340.294 makes violation of any provision of sections 340.200 to 340.330 a Class A misdemeanor for each offense, and “[t]he unlawful practice of veterinary medicine shall be deemed a separate offense for each animal treated by any person engaged in such unlawful practice.” § 340.294, RSMo.
- 4) The Petition’s request for an injunction is based on the authority granted to the MVMB by section 340.276. MVMB Petition ¶¶ 2, 6, 8, 13, 26.

- 5) Section 340.276.1 specifies that a court of general jurisdiction may only grant the requested injunction upon a showing that the party to be enjoined engaged in the unlawful practice of veterinary medicine. § 340.276.1, RSMo.
- 6) Section 340.276.2 specifies that “[a]ny action brought under this section shall be in addition to and not in lieu of any penalty or other discipline provided for by sections 340.200 to 340.330[.]” § 340.276.2, RSMo.
- 7) Neither the State of Missouri nor the MVMB has brought against the Defendants any criminal charges provided for by section 340.294.
- 8) The Board has explicitly affirmed that it does not intend to pursue criminal charges against the Defendants. Pet`r Resp. to First Req. for Admissions ¶ 18.
- 9) The Board has explicitly affirmed that it has not submitted information or evidence regarding Defendants’ allegedly illegal actions to officials responsible for enforcing the criminal laws of this state. Pet`r Resp. to First Req. for Admissions ¶ 19.

**SUGGESTIONS IN SUPPORT OF DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

In support of their Motion for Judgment on the Pleadings, Defendants offer the following suggestions.

**I. INTRODUCTION**

Summary judgment is appropriate in cases in which the movant can establish that there are no genuine issues of material fact and that the movant is entitled to judgment as a matter of law. *ITT Commercial Finance Corp. v. Mid-America Marine Supply Corp.* 854 S.W.2d 371, 377 (Mo. banc 1993). A defendant moving for summary judgment may establish a right to judgment by showing facts that negate any one of a claimant's element facts. *Id.* at 381. In this case, Petitioner claims that its authority to seek the requested injunction resides in section 340.276, RSMo.<sup>1</sup> The uncontroverted facts show that the Petition *does not* conform to the requirements of section 340.276. As such, Petitioner has no statutory authority for the present action and Defendants are entitled to summary judgment in their favor.

**II. STATEMENT OF FACTS**

Petitioner, the Missouri Veterinary Medical Board ("MVMB" or "the Board"), is a government agency composed of six licensed veterinarians and one non-veterinarian public member. § 340.202, RSMo. The Board brought this action on September 3, 2010, seeking preliminary and permanent injunctions against behaviors that the Board asserts would violate sections 340.200.28, 340.216.1, and 340.218, RSMo. MVMB Petition for Preliminary and Permanent Injunction ¶¶ 7, 15-25. Section 340.294 makes violation of any provision of sections 340.200 to 340.330 a Class A misdemeanor for each offense, and "[t]he unlawful practice of

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<sup>1</sup> Unless otherwise noted, all statutory references are to the Revised Statutes of Missouri, 2000.

veterinary medicine shall be deemed a separate offense for each animal treated by any person engaged in such unlawful practice.” § 340.294, RSMo. The Petition’s request for an injunction is based on the authority granted to the MVMB by section 340.276. MVMB Petition ¶¶ 2, 6, 8, 13, 26. Section 340.276.1 specifies that a court of general jurisdiction may only grant the requested injunction upon a showing that the party to be enjoined engaged in the unlawful practice of veterinary medicine. Section 340.276.2 specifies that “[a]ny action brought under this section shall be in addition to and not in lieu of any penalty or other discipline provided for by sections 340.200 to 340.330[.]” Neither the State of Missouri nor the MVMB has brought against the Defendants any criminal charges provided for by section 340.294. The Board explicitly affirmed that it does not intend to pursue criminal charges against the Defendants. Pet’r Resp. to First Req. for Admissions ¶ 18. The Board also explicitly affirmed that it has not submitted information or evidence regarding Defendants’ allegedly illegal actions to officials responsible for enforcing the criminal laws of this state. Pet’r Resp. to First Req. for Admissions ¶ 19.

### **III. THE BOARD’S ACTION FAILS TO MEET THE REQUIREMENTS OF § 340.276.**

Petitioner claims that section 340.276 gives it authority to seek the injunction requested in its Petition, but the uncontroverted facts show that Petitioner has not complied with the statute.

In section 340.276.1 the General Assembly authorized the Board to seek to enjoin persons not licensed by the Board from “offering to engage or engaging in the performance of any acts or practice for which a license, certificate, permit or other authority is required by sections 340.200 to 340.330 upon a showing that such acts or practices were performed or offered to be performed without a license, certificate, permit or other authority.” But the General

Assembly also imposed an important, substantive limit on the Board's authority by requiring that "any action brought under this statute *shall be in addition to and not in lieu of* any penalty or discipline provided for by sections 340.200 to 340.330 and may be brought concurrently with other actions to enforce sections 340.200 to 340.330."<sup>2</sup> § 340.276.2 (emphasis added). Section 340.276.2 makes clear that the injunctive relief authorized by the statute *was not* intended to be a stand-alone remedy. Rather, the statute only gives the Board authority to seek an injunction against a citizen accused of the unlicensed practice of veterinary medicine if the government is also pursuing the criminal punishments authorized by section 340.294.<sup>3</sup>

In the instant case, the Petition alleges that, without possessing a license from the Board, Defendants have engaged in a range of activities that, if proven, might violate sections 340.200.28, 340.216.1, and 340.218. MVMB Petition ¶¶ 7, 15-25. Section 340.294 provides that

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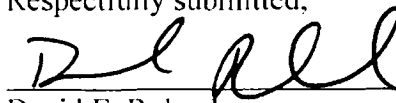
<sup>2</sup> It appears that fourteen other Missouri statutes have similar provisions. See §§ 214.277 (licensing of cemetery owners); 301.565 (licensing of motor vehicle dealers); 317.014 (licensing of professional combat sports); 326.298 (licensing of accountants); 327.075 (licensing of architects); 330.195 (licensing of podiatrists); 331.085 (licensing of chiropractors); 332.121 (licensing of dentists); 333.335 (licensing of embalmers and funeral directors); 334.230 (licensing of physicians and surgeons); 334.617 (licensing of physical therapists); 336.115 (licensing of optometrists); 339.180 (licensing real estate brokers and salespersons); 339.549 (licensing real estate appraisers). Defendants have been unable to identify any case or administrative proceeding in which a defendant challenged a government agency's decision to use one of these statutes to enjoin the commission of criminal activity without also pursuing the criminal penalties provided in the relevant statute. However, previous defendants' failures to demand proper application of these laws neither establishes the legitimacy of the earlier, improper applications, nor precludes Defendants from demanding that the Board be prevented from improperly applying section 340.076 in this case.

<sup>3</sup> It is possible that the General Assembly opted for this approach in response to the Missouri courts' longstanding refusal to enjoin criminal acts in the absence of threatened injury to private property rights or a demonstrable public nuisance, in part because such injunctions could deprive citizens of their constitutional protections. See, e.g., *Kinder v. Nixon*, 2000 WL 684860, \*12 (Mo. App. W.D. 2000) (unreported) (expressing concern that government would enjoy lowered burden of proof); *Missouri Veterinary Medical Ass'n v. Glisan*, 230 S.W.2d 169, 171 (Mo. App. 1950) (expressing concern that accused would be deprived of protections of criminal law and procedure); *State ex rel. Cir. Atty. v. Uhrig*, 14 Mo.App. 413, 417 (1883) (expressing concern that accused would be denied jury trial).

“any person who violates any provision of sections 340.200 to 340.330 shall, upon conviction in a court of competent jurisdiction, be adjudged guilty of a Class A misdemeanor for each offense.” thus providing a penalty as contemplated by section 340.276.2. At this time, no government party has pursued these criminal penalties in connection with the Defendants’ allegedly illegal actions, and the Board has expressly disavowed any intent to do so. Pet’r Resp. to First Req. for Admissions ¶ 18. The Board also denied having submitted information or evidence regarding Defendants’ allegedly illegal actions to officials responsible for enforcing the criminal laws of this state. Pet’r Resp. to First Req. for Admissions ¶ 19. It is therefore plain that the Board has brought this action separate from and “in lieu of” the criminal penalties provided for under section 340.294, in direct contradiction to the requirements of section 340.276.2. Thus, section 340.276.1 *does not* give the Board authority to seek the injunction demanded in its Petition; the Board cannot prevail in this case as a matter of law and the Defendants are entitled to summary judgment.

WHEREFORE, the Defendants, Brooke Gray and B & B Equine Dentistry, ask this Court to grant its motion for summary judgment against the Petitioner and to enter such other orders as this Court deems just and proper.

Respectfully submitted,



David E. Roland Mo. Bar #60548

Freedom Center of Missouri

5938 De Giverville Ave.

St. Louis, MO 63112

Phone: (314) 604-6621

Fax: (314) 720-0989

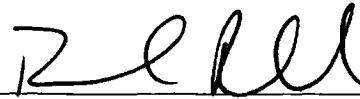
Email: dave@mofreedom.org

**ATTORNEY FOR DEFENDANTS BROOKE  
GRAY AND B & B EQUINE DENTISTRY**

**CERTIFICATE OF SERVICE**

I certify that today, March 30, 2011, I served a copy of the foregoing Motion for Summary Judgment, Statement of Uncontroverted Material Facts, and Suggestions in Support of Motion for Summary Judgment upon Edwin Frownfelter, attorney for the Missouri Veterinary Medical Board, by emailing an electronic copy in the form of a PDF (Portable Document Format) file to him at the following address:

Edwin Frownfelter  
edwin.frownfelter@ago.mo.gov  
Office of the Attorney General  
615 East 13<sup>th</sup> Street, Suite 401  
Kansas City, MO 64106



\_\_\_\_\_  
David E. Roland  
Mo. Bar #60548

Attorney for Defendants Brooke Gray and  
B & B Equine Dentistry



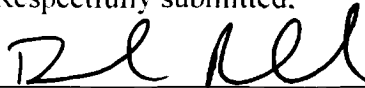
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And	)	
	)	
B & B EQUINE DENTISTRY	)	
	)	
	)	
	)	Defendants.

**NOTICE OF MOTION HEARING**

Dave Roland, attorney for Defendants Brooke Gray and B & B Equine Dentistry, hereby calls the above captioned matter up for Motion Hearing on Defendants' Motion for Summary Judgment, in the Circuit Courtroom, Clinton County Courthouse, 207 North Main Street, Plattsburg, Missouri on May 16, 2011, at 1:30 p.m. or as soon thereafter as may be held.

Respectfully submitted,



David E. Roland Mo. Bar #60548  
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Fax: (314) 720-0989  
Email: dave@mofreedom.org

**ATTORNEY FOR DEFENDANTS BROOKE  
GRAY AND B & B EQUINE DENTISTRY**

Certificate of Service

I certify that today, March 30, 2011, I served a copy of the foregoing Notice of Motion Hearing upon Edwin Frownfelter, attorney for the Missouri Veterinary Medical Board, by emailing an electronic copy in the form of a PDF (Portable Document Format) file to him at the following address:

Edwin Frownfelter  
edwin.frownfelter@ago.mo.gov  
Office of the Attorney General  
615 East 13<sup>th</sup> Street, Suite 401  
Kansas City, MO 64106

A handwritten signature in black ink, appearing to read "D E Roland", written over a horizontal line.

David E. Roland  
Mo. Bar #60548

Attorney for Defendants Brooke Gray and  
B & B Equine Dentistry

**IN THE CIRCUIT COURT OF CLINTON COUNTY  
STATE OF MISSOURI**

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and	)	
	)	
B & B EQUINE DENTISTRY	)	
	)	
Defendants.	)	

**PETITIONER'S RESPONSE TO**  
**DEFENDANTS' FIRST REQUEST FOR ADMISSIONS**

Petitioner, Missouri Veterinary Medical Board, responds to Defendants' First Request for Admissions as follows:

**REQUEST FOR ADMISSIONS**

1. Branding an animal constitutes treating, changing, alleviating, or rectifying a deformity, defect, or other physical condition of that animal.

**Request for Admission 1 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested.**

**Without waiving any objection on the ground of relevance, request for admission No. 1 is denied, as the Board has not taken a position on the issue of branding.**

2. Dehorning an animal constitutes treating, changing, alleviating, or rectifying a deformity, defect, or other physical condition of that animal.

**Request for Admission 2 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested.**

**Without waiving any objection on the ground of relevance, request for admission No. 2 is admitted, as the Board has taken a position that dehorning is the practice of veterinary medicine and has sent cease and desist letters to unlicensed persons performing dehorning. Copies of cease and desist letters sent by the Board are being provided to Defendants in response to its Requests for Production of Documents.**

3. Castrating an animal constitutes treating, changing, alleviating, or rectifying a deformity, defect, or other physical condition of that animal.

**Request for Admission 3 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested.**

**Without waiving any objection on the ground of relevance, request for admission No. 3 is admitted, as the Board has taken a position that castration is the practice of veterinary medicine and has sent cease and desist letters to unlicensed persons performing castration. Copies of cease and desist letters sent by the Board are being provided to Defendants in response to its Requests for Production of Documents.**

4. Trimming hooves on an animal constitutes treating, changing, alleviating, or rectifying a deformity, defect, or other physical condition of that animal.

**Request for Admission 4 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested. Without waiving any objection on the ground of relevance, request for admission No. 4 is denied, as the Board has not taken a position on the issue of hoof trimming.**

5. Nailing metal shoes to a horse's hooves constitutes changing that animal's physical condition.

**Request for Admission 5 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested.**

**Without waiving any objection on the ground of relevance, request for admission No. 5 is denied, as the Board has not taken a position on the issue of shoeing.**

6. Docking an animal's tail constitutes treating, changing, alleviating, or rectifying a deformity, defect, or other physical condition of that animal.

**Request for Admission 6 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested. Without waiving any objection on the ground of relevance, request for admission No. 6 is denied, as the Board has not taken a position on the issue of tail docking.**

7. Notching an animal's ear constitutes changing that animal's physical condition.

**Request for Admission 7 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested. Without waiving any objection on the ground of relevance, request for admission No. 7 is denied, as the Board has not taken a position on the issue of ear notching.**

8. Trimming an animal's nails constitutes treating, changing, alleviating, or rectifying a physical condition of that animal.

**Request for Admission 8 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested. Without waiving any objection on the ground of relevance, request for admission No. 8 is denied, as the Board has not taken a position on the issue of nail trimming.**

9. Cutting or shaving an animal's hair constitutes changing that animal's physical condition.

**Request for Admission 9 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested. Without waiving any objection on the ground of relevance, request for admission No. 9 is denied, as the Board has not taken a position on the issue of hair cutting or shaving.**

10. Applying chemicals to an animal's hair and skin for the purpose of cleaning or conditioning that animal's hair and skin constitutes changing that animal's physical condition.

**Request for Admission 10 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only**

**issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested. Without waiving any objection on the ground of relevance, request for admission No. 10 is denied, as the Board has not taken a position on the issue of hair cleaning and conditioning.**

11. Training an animal to obey human commands constitutes treating or changing that animal's mental condition.

**Request for Admission 11 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested. Without waiving any objection on the ground of relevance, request for admission No. 11 is denied.**

12. Imprinting a horse constitutes treating or changing that animal's mental condition.

**Request for Admission 12 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested. Without waiving any objection on the ground of relevance, request for admission No. 12 is denied.**



13. Under Chapter 340, RSMo., it is a criminal offense for any person who is neither licensed by the Missouri Veterinary Medical Board nor a full-time employee of an animal's owner to accept compensation for treating, changing, alleviating, or rectifying a deformity, defect, or other physical condition of that animal.

**Request for Admissions No. 13 is admitted, to the extent that Section 340.294, RSMo, provides, "340.294. Any person who violates any provision of sections 340.200 to 340.330 shall, upon conviction in a court of competent jurisdiction, be adjudged guilty of a class A misdemeanor for each offense. The unlawful practice of veterinary medicine shall be deemed a separate offense for each animal treated by any person engaged in such unlawful practice."**

14. Chapter 340, RSMo., only applies to teeth floating services if the person providing those services is a licensed veterinarian or otherwise accepts compensation for doing so.

**Request for Admission 14 is objected to as vague and overbroad, as Chapter 340 contains many provisions which may or may not be relevant to tooth floating. The section upon which this action is grounded, which is the only provision relevant within the scope of Rule 59.01(a), Section 340.216.1, provides, "It is unlawful for any person not licensed as a veterinarian under the provisions of Section 340.200 to Section 340.330 to practice veterinary medicine or to do any**

**act which requires knowledge of veterinary medicine for valuable consideration . . .” To the knowledge of the Board, the question of whether the modifier “for valuable consideration” applies to both “practice veterinary medicine” and “do any act which requires knowledge of veterinary medicine,” or only to the latter provision has not been determined by the courts. Thus it is denied that Section 340.216.1 applies only to services performed for compensation, as the definition is ambiguous as to whether the provision for compensation applies to acts comprising veterinary medicine, and the courts have not determined that issue.**

15. According to the Board’s understanding of Chapter 340, RSMo., a licensed veterinarian with zero training or experience in floating horses’ teeth could lawfully accept compensation for providing such services.

**Request for Admission 15 is denied. A veterinarian who attempts to perform veterinary services which he or she is not competent or qualified to perform may violate his or her professional duties and is subject to discipline under the terms of Section 340.264.2(5) and (6). A veterinarian who charges or accepts a fee for veterinary services he or she is not qualified to perform may commit misconduct under the terms of Section 340.264.2(4)(a).**

16. According to the Board’s understanding of Chapter 340, RSMo., a non-veterinarian layperson with decades of training and experience floating horses’ teeth and a perfect safety record could not lawfully accept compensation for

providing such services unless that layperson was a full-time employee of the owner of the horses whose teeth he was floating.

**Request for Admission 16 is objected to as addressing the Board's understanding of the law, which is not relevant or subject to discovery within the scope of Rule 59.01. Without waiving any objection, the Board is not aware of any exception to the prohibition of Section 340.216.1 that allows an unlicensed person to perform veterinary medicine for compensation on the basis that he or she has done so without incident in the past.**

17. The Board does not allege that Defendants have provided any services that were not first requested or agreed to by the owners of the animals.

**Request for Admission 17 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested. Whether or not Defendants' clients requested them to perform illegal activities is irrelevant and immaterial to the matters at issue, which is whether illegal activities were performed. Without waiving any objection, the Board does not have information to indicate that the Defendants performed any services without the knowledge and consent of the animals' owners.**

18. The Board intends to pursue criminal charges against the Defendants.

**Denied. The only action taken by the Board was to authorize the filing of a petition seeking an injunction to restrain Defendants from performing acts constituting veterinary medicine without a license, and because the fact that the defendants' illegal acts may have possible criminal consequences is irrelevant to the question of whether the Board is entitled to injunctive relief as sought in the petition. As the Board is a collective entity, it has no "intent" unless and until the decision of the Board is made in actions taken by a vote of the Board. Request for Admission 18 is further denied because the Board has no authority under Section 340.210, RSMo, to "pursue" criminal charges; it may only "assist with any prosecution for criminal violations of sections 340.200 to 340.330" under the terms of Section 340.210.3(14), RSMo.**

19. The Board has already submitted information or evidence regarding Defendants' alleged actions to officials responsible for enforcing the criminal laws of this state. **Request for Admission 19 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested, and because the fact that the defendants' illegal acts may have possible criminal consequences is irrelevant to the question of whether the Board is entitled to injunctive relief as sought in the petition. Without waiving any objection, Request for Admission 19 is denied. The Board has made no**

determination to turn information over to law enforcement agencies at the time. Should the Board come into possession of evidence that violations of the criminal law of Missouri or of the United States have occurred, it has the right and may have a duty to report such violations to appropriate law enforcement agencies. An investigator for the Board, William Burton, made contact with the Office of Criminal Investigations of the United States Food and Drug Administration, for purposes of obtaining information and assistance in his investigation.

20. If in the course of this case the Board comes into possession of new information or evidence regarding the Defendants' alleged actions, it will provide such to officials responsible for enforcing the criminal laws of this state.

Request for Admission 20 is objected to as addressing matters which are irrelevant and immaterial, and therefore not within the scope of Rule 59.01(a), as the only issue before the court is whether or not the practices performed by the Defendants constitute veterinary dentistry, and if so the Board is entitled to the relief requested, and because the fact that the defendants' illegal acts may have possible criminal consequences is irrelevant to the question of whether the Board is entitled to injunctive relief as sought in the petition. Without waiving any objection, it is denied that the Board "will" perform any particular activity. The Board may consider any information of which it becomes aware and may take appropriate action, including, if it so decides, providing information regarding criminal conduct to appropriate criminal law enforcement agencies.

By the Missouri Veterinary Medical Board,

Dana Fennewald  
Dana Fennewald, Executive Director

VERIFICATION

STATE OF MISSOURI                    )  
  ) ss.  
COUNTY OF COLE                    )

Dana Fennewald appeared before me and executed the foregoing Answers to Plaintiff's First Request for Admissions, and stated that the answers were true and correct to the best of her knowledge, information, and belief this 21<sup>st</sup> day of January, 2011.

Darcie G. Rehagen  
Notary Public

My commission expires:

