

In the Matter of the Petition for Reinstatement
ELAINE MARIE GAWLIK

VETERINARY MEDICAL BOARD

Case No: **D1 2011 35**

OAH No: 2020050414

Attorney General's Exhibits

ATTORNEY GENERAL'S EXHIBIT NO.	DOCUMENT	MARKED	ADMIT
1	Notice of Hearing		
2	License History Certification		
3	Petition for Reinstatement and Attachments in Support		
4	Default Decision and Order (D1 2011 35), and underlying documents which include: <ul style="list-style-type: none">➤ Petition to Revoke Probation (D1 2011 35)➤ Decision (AV 2011 35)➤ Proposed Decision (AV 2011 35)➤ Accusation (AV 2011 35)		

EXHIBIT 1



July 3, 2020

Elaine M. Gawlik, DVM
[REDACTED]

**RE: HEARING NOTICE
OAH Case No. TBD
Petition for Reinstatement – Elaine M. Gawlik, DVM, VET 10507 (Revoked)**

Dear Dr. Gawlik:

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

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

Date: July 24, 2020

Time: 9:00 am.

Location (Videoconference link): : <https://dca-ca.webex.com/dca-ca/onstage/g.php?MTID=e47e69c507bd53a6a264e8bfdbfe99152>

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

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

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

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

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

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

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

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

Sincerely,

Virginia Gerard

Virginia Gerard
Probation Monitor

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



DECLARATION OF SERVICE BY CERTIFIED MAIL

RE: Elaine M. Gawlik, DVM

LICENSE NO: VET 10507 (Revoked)

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

NAME AND ADDRESS

CERTIFIED NUMBER:

Elaine M. Gawlik, DVM
 [Redacted]

7018 0680 0002 2403 9846

Elaine M. Gawlik, DVM
 [Redacted]

First Class Mail

Said envelope was then, July 7, 2020, sealed and deposited in the United States Mail at 1747 N. Market Boulevard, Suite 230, Sacramento, CA 95834, the county in which I am employed, as certified mail with postage thereon fully prepaid, return receipt requested.

Executed on July 7, 2020, at Sacramento, California.

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

DECLARANT:

Dillon Christensen
 Enforcement Analyst
 Veterinary Medical Board

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

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

OFFICIAL USE

7018 0680 0002 2403 9846

Certified Mail Fee \$

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

Postage \$

Total Postage and Fees \$

Sent To

Street and Apt. No., or PO Box

City, State, ZIP+4®

Elaine M. Gawlik, DVM
 17138 Burton Street
 Van Nuys, CA 91406
 AGO003

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

EXHIBIT 2



CERTIFICATION OF LICENSE HISTORY

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

VET No. 10507:

Elaine M. Gawlik, DVM
[REDACTED]

First Issued: July 6, 1989
Expiration: June 15, 2015
Status: Revoked

Discipline:

On November 23, 2016, a Default Decision and Order was issued in the matter of the Petition to Revoke Probation dated February 2, 2016, in case number D1 2011 35. The Decision and Order revoked Veterinarian License VET 10507.

On July 24, 2012, a Decision and Order was adopted in the matter of the Accusation against Dr. Gawlik dated August 16, 2011, in case number AV 2011 35. The Decision and Order placed Dr. Gawlik on probation for five years.

Given under my hand at Sacramento, California, this 7th day of July, 2020.

Robert Stephanopoulos, Enforcement Manager

EXHIBIT 3



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



PETITION FOR REINSTATEMENT OR SEP 28 2013 MODIFICATION OF PENALTY VMB/RVTC

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

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

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

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

PERSONAL INFORMATION

NAME: First Middle Last
 Elaine Marie Gawlik

Other name(s) licensed under, if any:
 Elaine M. Nesbitt

HOME ADDRESS: Number & Street City State Zip
 [Redacted] Van Nuys C A

HOME TELEPHONE NUMBER WORK TELEPHONE NUMBER CELL NUMBER
 () [Redacted] [Redacted]

E-mail address: CA License or Registration Number
 eclimber@msn.com CA 10507

Are you licensed by any other state(s) or country(ies) (please include license number(s), issue date(s), and status of license(s)):
 No

ATTORNEY INFORMATION (If Applicable)

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

NAME: Negin Yamini

ADDRESS: 5670 Wilshire Blvd, Suite 1860 Los Angeles, CA 90036

PHONE: (310) 740-1202

DISCIPLINARY INFORMATION

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

Have you ever had your license revoked, suspended, voluntarily surrendered, denied, or placed on probation in any other state or country? No Yes

(If Yes, give a brief cause for administrative action or license denial in your "Narrative Statement" section, including dates and discipline ordered (e.g., 5 years probation.)

VETERINARIAN/REGISTERED TECHNICIAN BACKGROUND

Total number of years in veterinary practice:

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

V.I.N. Principles of Medicine: RACE #22-35512; 02/14/2019-03/31/2019; 10 units
V.I.N. Pathologic Basis of Disease: RCE #22-33953; 10/25/2018-01/27/2019; 18 units
V.I.N. Backyard Poultry Medicine: RACE #22-33988; 08/2018; 3.5 units
V.I.N. Anesthesia for Patients with Pre-Existing Disease: RACE #22-33499; 09/25/2018-11/16/2018
12 units
V.I.N. Oncology and Tumor Pathology Module 1: RACE #22-33448; 08/08/2018-09/29/2018
12 units
V.I.N. Veterinary Ethics: RACE #22-11060; 03/28/2013-06/03/2013; 16 units

CURRENT OCCUPATION OTHER THAN VETERINARIAN OR REGISTERED VET TECHNICIAN

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

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

Warner Center Pet Clinic 20930 Victory Blvd., Woodland Hills, CA 91367 (818)710-8528
epetwcpc@yahoo.com
Veterinary Assistant: Assist veterinarians with treatment procedures, collect laboratory samples, take radiographs, monitor anesthesia.

EMPLOYMENT HISTORY (list for the past 5 years only)

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

02/2018 to present: Warner Center Pet Clinic (as listed above)

REHABILITATION

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

East Valley Mental Health: 08/2016-02/2017 Out-patient monthly psychiatric care
West Valley Mental Health: 02/2017 to present Out-patient psychiatric care with Ina Barg, M.D. every 3 months
Alcoholics Anonymous member: Daily meetings past 2 years. Weekly meeting with sponsor.

H and I member Alcoholics Anonymous past 2 years. I speak on panels that AA takes into hospitals, jails, and institutions, 3 times monthly.

General Service Representative for AA District 1. Serve my district at monthly General Service meetings and quarterly at the Area-level (Area 93) Assemblies.

CURRENT COMPLIANCE

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

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

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

COST RECOVERY

Was cost recovery ordered? Yes No If yes, what is the remaining balance? _____

When is payment anticipated? _____

DECLARATION

Executed on August 26 20\$19, at Van Nuys, C A
(City) (State)

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

Elaine M. Gawlik, D.V.M.

Petitioner (print name)

E.M. Gawlik D.V.M.

Signature

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



REQUEST FOR LIVE SCAN SERVICE

Print Form

Reset Form

Applicant Submission

A0133
ORI (Code assigned by DOJ)

License/Registration:
Authorized Applicant Type

Veterinarian/Veterinary Tech
Type of License/Certification/Permit OR Working Title (Maximum 30 characters - If assigned by DOJ, use exact title assigned)

Contributing Agency Information:

Veterinary Medical Board
Agency Authorized to Receive Criminal Record Information

1747 N. Market Blvd., Ste. 230
Street Address or P.O. Box

Sacramento CA 95834
City State ZIP Code

06386
Mail Code (five-digit code assigned by DOJ)

Contact Name (mandatory for all school submissions)
(916) 515-5220
Contact Telephone Number

Applicant Information:

GAWLIK
Last Name

ELAINE
First Name

M.
Middle Initial

Suff
Suffix

Other Name (AKA or Alias) Last
NESBITT
First
ELAINE
Suffix

Sex Male Female

5'6" 140
Height Weight

BLUE BLONDE
Eye Color Hair Color

CALIFORNIA
Place of Birth (State or Country)

Home Address N/A
Street Address or P.O. Box

Billing Number Applicant Must Pay (Agency Billing Number)
Misc. Number (Other Identification Number)

N/A N/A N/A
City State ZIP Code

Your Number: N/A
OCA Number (Agency Identifying Number)

Level of Service: DOJ FBI

If re-submission, list original ATI number:
(Must provide proof of rejection)

Original ATI Number

Employer (Additional response for agencies specified by statute):

N/A
Employer Name

N/A
Street Address or P.O. Box

N/A N/A N/A
City State ZIP Code

N/A
Mail Code (five digit code assigned by DOJ)

Telephone Number (optional)

Live Scan Transaction Completed By:
GVT The UPS Store #1023
20929 Ventura Blvd Suite 47
Woodland Hills CA 91364

Name of Operator (818)702-0456 TEL
(818)702-0437 FAX

Transmitting Agency LSID

Danny Rosales 6/19/19
Date

GVT
ATI Number

G170GAE197#79
Amount Collected/Billed

Elaine Gawlik, D.V.M.
17138 Burton St.
Van Nuys, CA 91406

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

Esteemed Board Members,

My name is Elaine Marie Gawlik. This is my narrative statement for petition to reinstate my California veterinary license, No. VET 10507, revoked by default decision effective November 23, 2016. My veterinary license was placed on probation August 23, 2012 for convictions of alcohol related misdemeanors and failure to disclose convictions when renewing my license. I violated the terms of probation when I was convicted of D.U.I. in June 2015.

I was bitten on my left hand and thumb by a seizing patient in October 2013. The ensuing infection was so severe I was unable to work and on months of intravenous antibiotics via PICC line both hospitalized and at home. The damage caused almost complete loss of function in my left thumb, and I was in physical therapy several times weekly for over a year. As my thumb was slowly improving, I suffered a complete tear to my right rotator cuff, my dominant arm, and was unable to lift it to my waist.

By early 2015 I was in a very dark place; spiritually, physically, and emotionally. I was no longer able to work at the job I so cherished. I was charged with DUI for sleeping in my car heavily intoxicated with the keys in my possession. This brought me to a bottom I needed to hit. The conviction was disclosed to the Board and started a process of revocation.

2 surgeries to repair my right rotator cuff in 2016 were unsuccessful 6 months apart. I could not lift my right arm to my waist, and although function of my left hand and thumb was greatly regained, it as looking as though I would never return to the practice of veterinary medicine. I had not practiced since the bite in 2013.

When the letter came from the Veterinary Medical Board in 2016 seeking revocation of my veterinary license, I simply gave up. I did not fight. It took another year to have my right shoulder repaired via reverse total shoulder replacement in late 2017. I finally had function of both hands and arms, at the same time.

My sobriety today is the priority in my life. I have learned through some very hard lessons that anything I place in front of it I can lose. I attend Alcoholics Anonymous (AA) meetings daily. I consistently and rigorously work AA's 12 steps and practice those principles in each area of my life. I am fully invested in my sobriety and am very active

In service work within AA itself. I speak on AA panels that we take into hospitals, jails, and institutions, and have several commitments at my regular meetings (treasurer, secretary).

Last year I helped organize and attended the 2019 San Fernando Valley AA Convention, an annual gathering of 2000+ recovering alcoholics, and am doing so again this year for 2020. I reside in a sober living home, the Hope House, where I have lived since November of 2017.

My sister and I are caring for our mother, 83, who is quickly declining in Alzheimer's disease. Our Dad is 83 and has health problems. The difference for me today is that I can help. I GET to help. I am so blessed to have the fellowship of AA surrounding me today. What time I wasted thinking I could stay sober on my own. My life has been given back to me because I have embraced the program of Alcoholics Anonymous.

My criminal probation was terminated early (October 2018) and the accompanying DUI conviction was also expunged from my record.

My career means the world to me. I am now presented with the opportunity to start again. Veterinary Medicine is and has been my passion since I was a teen. I graduated from High School as Valedictorian, went directly to college and graduated from Cal Poly San Luis Obispo Summa Cum Laude in 1985. I graduated with honors from UC Davis School of Veterinary Medicine in 1989 when I was 25 years old. I have worked continuously in small animal private practice since my graduation until my injury in 10/2013. I enjoy the patients, client education, and I am a dedicated learner.

I take continuing education seriously and constantly seek to keep up to date with ever evolving diagnostics and treatment protocols. I have completed over 60 units of R.A.C.E. approved continuing education over the past 1 ½ years. I utilize Veterinary Information Network daily, as well as read DVM 360 regularly.

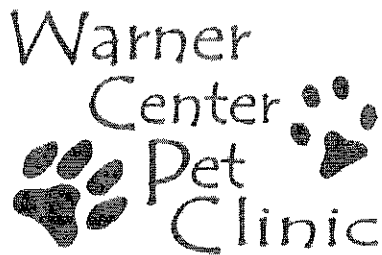
It is both humbling and thrilling to be working once again in veterinary medicine, albeit in a technical capacity. After healing from my final shoulder surgery, I returned to Warner Center Pet Clinic in 02/2018 as a veterinary assistant. What I was sure was lost is being found. I have been offered a position there as an associate veterinarian when my license is reinstated. Their belief in me is invaluable.

Today drinking is no longer an option. I deal with life on life's terms and have the tools and support with which to do so. Sober. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "E.M. Gawlik D.V.M." The signature is written in a cursive, flowing style.

Elaine M, Gawlik, D.V.M.



July 29, 2019

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

Dear Board Members:

This letter is in regards to Elaine Gawlik, DVM. Dr. Gawlik has been working at my hospital as a veterinary assistant for over a year now. After working with her, it is easy to see how she became the valedictorian of her high school. From there, she went straight to Cal Poly SLO where she graduated Summa Cum Laude setting her up to graduate with honors from UC Davis.

Dr. Gawlik is a wealth of knowledge. Her dedication to the animals and her profession goes beyond the walls of our office. She spends many of her lunch hours working on Continuing Education. She will have completed over 70 hours of CE in the past year or two, accumulating the hours after her AA meetings and on weekends. In addition, she is always trying to help the other employees to learn why we are doing things and understand the medicine behind it. She is never too busy to answer a question and make sure that that person understands her answer. She has really helped our team to grow and become better. She is a great role model for our employees and especially our pre-vet student volunteers.

Dr. Gawlik is always on time and ready to work. We have assigned her schedule to work around her daily AA meetings and obligations. She is currently residing in a sober living house and is truly enjoying her life there. I have never doubted her sobriety since she has been here. Even through some very trying times (witnessing the suicide of a friend and housemate) she has been successful in her sobriety. I truly believe that Dr. Gawlik is 110% dedicated to becoming the best veterinarian that she can be.

Dr. Gawlik and I have had many conversations regarding her license revocation. She has been open and honest about the how's and why's this occurred. She has taken full responsibility for her actions and her alcoholism and makes no excuses. She has worked

20930 Victory Blvd ~ Woodland Hills, Ca ~ 91367
(818) 710-8528 ~ FAX (818) 710-9312

July 29, 2019

very hard to overcome each and every physical and mental obstacles in her way to achieve her goals of sobriety, family and regaining her license and I feel that she has done a fantastic job. I am eagerly awaiting the day that Dr. Gawlik can once again work as veterinarian. I plan to hire Dr. Gawlik as an associate as soon as her license is reinstated.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Debra Jackson", with a large, stylized flourish underneath.

Debra Jackson, DVM

Shirley Truong, DVM
3437 W. 171st Street
Torrance, CA 90504
(818) 269-5842

April 12, 2019

California Veterinary Medical Board
1747 N. Market Boulevard, Suite 230
Sacramento, California 95834-2987

To whom it may concern:

I am writing this letter on behalf of Dr. Elaine Gawlik. Dr. Gawlik and I have been working together at Warner Center Pet Clinic in Woodland Hills, CA since I rejoined the practice as a part-time Associate Veterinarian in October 2018. Within this time frame, I have seen the depth of Dr. Gawlik's veterinary knowledge as well as her dedication to the profession and her sobriety.

As a recent graduate (WesternU Class of 2016), mentorship and guidance are vital to my success. I am lucky to have Dr. Gawlik as a reliable resource while at work. She is always willing to provide an extra set of eyes when interpreting radiographs or act as a sounding board as I think through tough cases. The clients and patients of the veterinary profession would benefit immensely by reinstating Dr. Gawlik's license. She is consistently learning through CE programs to stay relevant in the everchanging world of veterinary medicine and is practicing effective communication with our staff and clients during every shift at the clinic.

Dr. Gawlik has demonstrated the perseverance it takes to succeed in this profession by overcoming both physical and emotional obstacles. She sustained crippling injuries from patients, went through a brutal custody battle for her daughter, and fought against alcoholism. Most people would allow these events to deplete their motivation to come out on the other side, but Dr. Gawlik eventually regained control of her life with the help of support groups and loved ones.

The veterinary profession needs Dr. Gawlik and she needs the veterinary profession. We all make mistakes, but what matters is how we respond to our mistakes. By being persistent and dedicated, Dr. Elaine Gawlik has shown that she deserves to have her veterinary license reinstated.

Please take my experiences with and my perspective of Dr. Gawlik into consideration as you make the decision regarding reinstatement of her veterinary license.

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

Sincerely,



Dr. Shirley Truong

Vardui Khorikyan
5931 Reseda Blvd. #207
Tarzana, Ca 91356
vkhorikyan@vetmail.lsu.edu
(818) 645-4157

July 10, 2019

To Whom It May Concern,

My name is Vardui Khorikyan and I met Elaine many years ago when she worked as a veterinarian at Warner Center Pet Clinic. At that time, I was just a receptionist going to school to become an elementary school teacher. Since then, I received my teaching credential, taught for a few years, quit teaching, and will now be pursuing a career in veterinary medicine as I will be starting veterinary school this August at Louisiana State University. People like Elaine have inspired me to embark on such a journey. I strive to one day be as knowledgeable as her.

Since Elaine has returned to Warner Center Pet Clinic for a second time, I have had the opportunity to become better acquainted with her since both of us have returned to the same veterinary hospital as veterinary technicians. She exhibits great interpersonal skills with both her coworkers and clients. She always collaborates with other team members in caring for patients. She is also very knowledgeable when communicating with clients and does so in a caring manner.

Regardless of her medical and personal struggles, Elaine has been resilient in her efforts to help animals and their owners. I admire her for working as a veterinary technician since she was previously a veterinarian. I know it can be a struggle to work in a demoted position. I also experienced this when I decided to leave the teaching profession. I commend her bravery in showing up to work every day with a smile on her face.

Elaine is a crucial part of our team at Warner Center Pet Clinic. She would be a huge asset to Warner Center Pet Clinic if she were to have her veterinary license reinstated. One of the most important traits of Elaine that I have observed is that she is a life-long learner. She continuously uses different resources in researching different medical conditions in order to provide patients with excellent care.

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

Sincerely,



Vardui Khorikyan

August 19, 2019

California Veterinary Medical Board
1747 North Market Boulevard, Suite 230
Sacramento, California 95834

Dear Members of the Board,

I am writing in support of Elaine Gawlik for the reinstatement of her California Veterinary License.

I have known Elaine for approximately four years as a friend and for our volunteer work together within Alcoholics Anonymous. I met her shortly after she reached out for help with her drinking problem.

From the very beginning, Elaine was humble, motivated, and willing to accept responsibility for her difficulties. She very quickly began to recover. Her life was wrought with consequences from her recent bad decisions, but she worked tirelessly to right the wrongs where she could. Although this kept her plenty busy, she also cheerfully pitched in wherever needed in helping other individuals and in volunteer positions at a for formal corporate level. Slowly, one by one, she set things back into order with her family, her friends, the community at large, and her career.

On a personal level, Elaine is intelligent, humorous, compassionate and generous. She has been a huge source of support for me in my avocation as a kitten foster parent. While she is not able to practice medicine, she is able to refer me to information and resources. She is also a great sounding board when I'm not sure what I'm doing, or I'm discouraged by the situation. I recently lost a 6-week-old kitten to pneumonia; the siblings were in the hospital for several days for treatments. This was out of both of our hands. Only the veterinarian and God himself had any real power over the situation, but Elaine checked in on me daily to make sure I was doing alright and to offer helpful advice based on her professional experience. It made a hard situation a lot easier to bear.

On a professional level, I have worked with Elaine in various capacities within the AA service structure. I have the pleasure of serving on the board for the Central California Area Assembly, an entity that oversees operations from Los Angeles, Ventura, Santa Barbara, San Luis Obispo and Kern counties. In addition, we work in cooperation with many other organizations in other counties and states. That was how I first met Elaine, as we traveled to San Diego for a conference where she had agreed to act as a scribe. This can be a difficult position, as people can be enthusiastic at these conferences and have a tendency to talk over each other or to speak very quickly. She did a great job of capturing and presenting the notes to the board. Since then, I have seen her give very generously of her time doing things both spectacular and mundane. Everyone is willing to volunteer for the spectacular; it takes someone a little more sincere and grounded to do the mundane, and yet those are some of the most important jobs in any organization. Most recently,

she agreed to wake up early to drive myself and another committee member to Oxnard because I was having vertigo and wasn't sure it was safe to drive myself. What a huge difference from a person fighting to regain their license after a DUI! And an absolute life saver for me.

Elaine is loved and well respected by all who come in contact with her, whether she is speaking before a crowd sharing her experiences, volunteering on a committee, or just hanging out with the gals for some fellowship and good conversation. I can't tell you how many times we have solved all the problems of the world over a plate of tacos.

This all boils down to the fact that Elaine is an asset, not a liability. While she is very aware of the real and potential damage she did during her drinking, she has not shirked responsibility for her actions and has done everything within her power to turn her life around and return to a place of stability and honor.

It is for these reasons and many more that I can recommend without reservation that Elaine Gawlik have her California Veterinary License reinstated and be allowed to continue in the profession that she loves and where she is most useful to her community. Based on our experience together, I can confidently state that she is moving forward with her life and could be expected to do everything necessary to earn the right to practice veterinary medicine.

Please feel free to contact me at the phone number or email address in the footer if you need more information or have any questions about what I have written or anything else I can tell you about Elaine.

Sincerely,



Sue Dildine

/SD/

The Hope House for Women, Inc
Serving the Community since 1989
7844-7854 Vanalden Avenue
Reseda, CA 91335

August 25, 2019

To Whom it May Concern:

The Hope House for Women is a nonprofit organization committed to providing a monitored, safe, drug free environment to assist the newly sober woman on her journey into a new and better way of life. The principals of the 12 Step Program, combined with support of staff and fellow residents have made it possible for Hope House to help over 1,000 women regain their children, complete court programs, and return to healthy and productive lives. Hope House has served the greater Los Angeles area for over 25 years and is in good standing in our community.

Elaine Gawlik, whose move in date is November 10, 2017 has been a consistently upstanding member of our household. Her visible growth and dedication to recovery has been an inspirational asset to the others. Elaine's willingness to face each new challenge gives hope to those her around her that nothing is impossible if you stay on the right path. I see nothing but success for her, as she has proven steady in all aspects of her life during the past 20 months.

Any further questions or concerns can be directed to either:

Beth Hope, owner
22375 Cass Avenue
Woodland Hills, CA 91364
(818) 882 - 6923

OR

Tamara Mendez, res. Mngr.
7854 Vanalden Avenue
Reseda, CA 91335
(805) 206 - 5152

Sincerely,



Tamara Mendez
Residential Manager

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

CA Veterinary Medical Board
1747 North Market St, Ste. 230
Sacramento, CA 95834

08/01/2019

Dear Veterinary Board Members,

I am the father of Elaine M. Gawlik.

I am writing this letter on her behalf to assure you that she has turned her life around. She no longer drinks alcohol. She attends AA meetings daily and lives in an alcohol free environment.

She has been gainfully employed as a veterinary assistant since 02/2018 at Warner Center Pet Clinic.

She realizes what harm alcohol has done to her life and career, and while the suffering has been great, her recovery is greater. She is ready, willing, capable and especially hopeful to resume her chosen profession as a doctor of veterinary medicine. She has never wanted to do anything else in life other than to work with and help animals.

Elaine has always been an excellent veterinarian, has kept current in her professional knowledge, and is respected by her employers and fellow staff. She has always received many compliments and thanks from clientele, both as a veterinarian and now as an assistant.

She loves her work and has always been willing to share her knowledge and expertise with others in the field without reservation. She especially enjoyed helping veterinarians just entering the field. As an aside, I always thought she would have made an excellent teacher. She truly deserves to have her license reinstated and I hope you will agree.

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

Sincerely,



George Gawlik
17138 Burton St
Van Nuys, CA 91406
(818)343-0328

**OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA
GENERAL JURISDICTION DIVISION**

Request for Protective Order Sealing Confidential Records

Case Information

Case Name ELAINE MARIE GAWLIK
OAH Case Number 2020050414
Agency Case Number D1 2011 35
Name of Moving Party Office of the Attorney General

Moving Party Attorney/Representative Contact Information

Name Anahita S. Crawford, Deputy Attorney General
Mailing Address 1300 I Street
Sacramento, CA 95814
Phone Number 916-210-6099

NOTICE: A party filing a document with OAH is required to redact all confidential personal information. A protective order sealing a record should be requested only when the document must be considered in its entirety and redaction of portions of the document is not practicable or will not adequately protect privacy interests.

Identification of Documents Requested to Be Sealed

Identification of Documents Requested to be Sealed: This request for protective order sealing confidential records relates to the following documents:

- Exhibits Numbered (enter exhibit page numbers) Exhibit 3, AGO 19
- All Exhibits
- Transcripts
- Recordings
- Other Documents Filed with OAH (enter description)

Factual Basis for Request for Protective Order Sealing Confidential Records

The moving party alleges that the records listed above contain confidential personal information including:

- Medical Information/Records
- Personal Financial Information
- Alleged Crime Victim(s)/Complaining
- Witness(es)
- Names of Minor(s)
- Other (enter description)

Reason for Protection

These records should be protected from disclosure to the public. The documents cannot be partially redacted and must be sealed because (describe reasons) the entire document needs to be considered by the Board but it contains confidential health information that should not be disclosed to the public.

Legal Authority for Protective Order Sealing Confidential Records

The moving party alleges that a protective order sealing confidential records is authorized by the following legal authorities:

Government Code Section 11450.30; California Code of Regulations, Title 1, Section 1030)

Opposition to Request:

This request is NOT OPPOSED by any party

This request is OPPOSED by (enter name):

A proof of service upon all parties to this case is attached as required.

By typing my name below, I am agreeing to electronically signing this form.

Requestor's Signature *Anahita S. Crawford*

Requestor's Printed Name Anahita S. Crawford

Dated *07/15/20*

For E-filing <https://www.applications.dgs.ca.gov/oah/oahsftweb>

OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF CALIFORNIA

GENERAL JURISDICTION DIVISION

Privacy Notice

This notice is provided pursuant to the Information Practices Act of 1977 (Civil Code, Section 1798 et seq.).

All information and records submitted to OAH may be subject to disclosure in accordance with the California Public Records Act (Government Code, Section 6250 et seq.), and other applicable authority unless expressly prohibited by law. Proceedings before OAH and records held by OAH are public unless otherwise provided by statute (Government Code, Section 11425.20). For example, the Family Educational Rights and Privacy Act (FERPA 20 United States Code Section 1232(g)) recognizes privacy rights to educational records in certain limited circumstances. It is the obligation of the parties to determine if case filings or proceedings require privacy protections. OAH cannot provide legal advice.

The Information Practices Act requires OAH to provide notice to individuals who submit personal information to OAH.

- 1) This notice does not apply to information provided by an agency or to routine contact information collected by OAH for the purpose of identification or communication regarding the case.

- 2) To the extent this form seeks information about a need for accommodation, OAH requests the information for the sole purpose of making a determination about the accommodation an individual is seeking. An individual seeking an accommodation is not required to use this form; it is provided as a convenience only. OAH can request this information in accordance with the Americans with Disabilities Act (42 United State Code Section 12101 et seq.).

- 3) Requests for Public Records or information maintained in accordance with the Information Practices Act shall be directed to the OAH Public Records Officer, 2349 Gateway Oaks Drive, Suite 200, Sacramento, CA 95833, (916) 263-0550, or OAHPRRA@dgs.ca.gov.

DECLARATION OF SERVICE BY E-MAIL

Case Name: **In the Matter of the Petition for Reinstatement Against: Elaine Marie
Gawlik**

No.: 2020050414

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

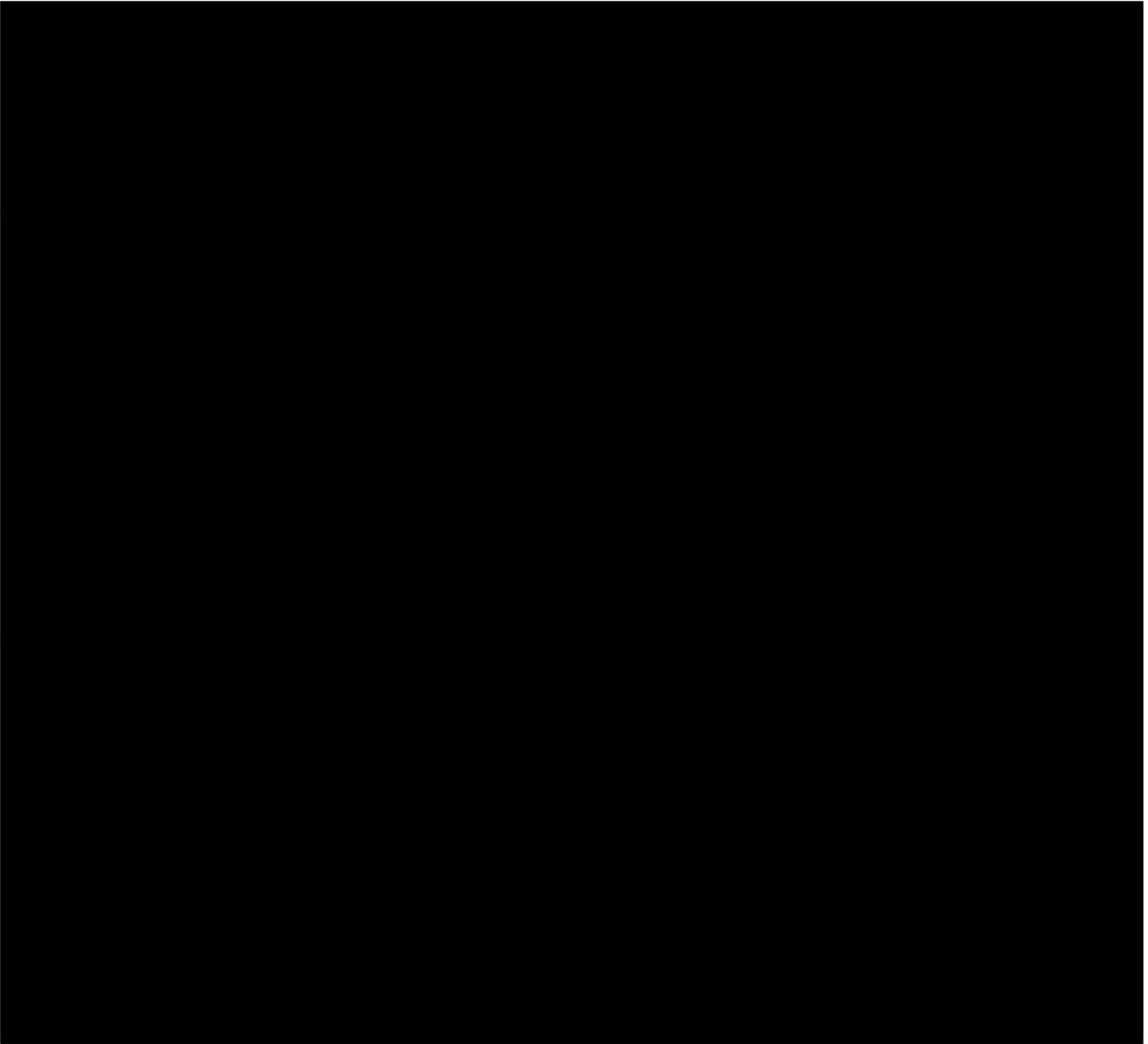
On July 15, 2020, I served the attached **REQUEST FOR PROTECTIVE ORDER SEALING CONFIDENTIAL RECORDS** by transmitting a true copy via electronic mail:

Negin Yamini
5670 Wilshire Blvd, Suite 1837
Los Angeles, California 90036
E-mail Address: yamini.negin@gmail.com

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 15, 2020, at Sacramento, California.

Anahita S. Crawford
Declarant

Anahita S. Crawford
Signature





CERTIFICATE OF ATTENDANCE

Dr. Elaine Gawlik

has successfully completed

MULT208-0219 Principles of Medicine 2019

RACE Course # 22-35512

February 14 2019 - March 31 2019

Instructed by:

Katherine James, DVM, PhD, DACVIM

Linda Kidd, DVM, PhD, DACVIM

Kathy Freeman, DVM, BS, MS, PhD, DipECVCP, FRCPath, MRCVS

Stefanie Klenner-Gastreich, Dr.med.vet., Dipl. ECVCP

Peggy L. Schmidt, DVM, MS, Dipl. ACVPM

Presented by: VETERINARY INFORMATION NETWORK

RACE Provider #22

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

State of Licensure: CA(10507)

Additional licensure _____

Member signature *E.M. Gawlik D.V.M.*

This program has been approved for 10 hours of interactive continuing education credit in a medical subject manner in jurisdictions that recognize RACE approval.

Authorized by:

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



CERTIFICATE OF ATTENDANCE

Dr. Elaine Gawlik

has successfully completed

MULT207-1018 Pathologic Basis of Disease 2018

RACE Course # 22-33953

October 25 2018 - January 27 2019

Instructed by:

Robert M. Gogal Jr., DVM

Beth Davidow, DVM, DACVECC

Sharon Gwaltney-Brant, DVM, PhD, ABVT, ABT

Margret L. Casal, DVM, MS, PhD

Sarah Abood, DVM, PhD

Julie A. Churchill, DVM, PhD, DACVN

Eric Spaul, DVM, PhD, DACVP

Presented by: VETERINARY INFORMATION NETWORK

RACE Provider #22

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

State of Licensure: CA(10507)

Additional licensure _____

Member signature *Elaine Gawlik*

This program has been approved for 18 hours of interactive continuing education credit in a non-medical subject manner in jurisdictions that recognize RACE approval.

Authorized by:

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



CERTIFICATE OF ATTENDANCE

Dr. Elaine Gawlik

has successfully completed

EXOT317-2018 Backyard Poultry Basics 2018 Non-Interactive

RACE Course # 22-33988

July 31 2018 - December 31 2018

Instructed by:

Lynne Luna, DVM, MAM

Presented by: VETERINARY INFORMATION NETWORK

RACE Provider #22

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

State of Licensure: CA(10507)

Additional licensure _____

Member signature *E. M. Gawlik*

This program has been approved for 3.5 hours of non-interactive continuing education credit in a non-medical subject manner in jurisdictions that recognize RACE approval.

Authorized by:

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



CERTIFICATE OF ATTENDANCE

Dr. Elaine Gawlik

has successfully completed

ANES111-0918 Anesthesia for Patients with Pre-Existing Disease - Bridging the Gap Between

RACE Course # 22-33499

September 25 2018 - November 16 2018

Instructed by:

Kris Kruse-Elliott, DVM, PhD, DACVAA

Nancy Brock, DVM, DACVAA

Lydia Love, DVM, DACVAA

Presented by: VETERINARY INFORMATION NETWORK

RACE Provider #22

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

State of Licensure: CA(10507)

Additional licensure _____

Member signature *Elaine Gawlik*

This program has been approved for 12 hours of interactive continuing education credit in a non-medical subject manner in jurisdictions that recognize RACE approval.

Authorized by:

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



CERTIFICATE OF ATTENDANCE

Dr. Elaine Gawlik

has successfully completed

DIAG300-0818 Oncology and Tumor Pathology Module 1

RACE Course # 22-33448

August 08 2018 - September 29 2018

Instructed by:

Dr. med. vet. habil. Matti Kiupel, PhD, DACVP
Craig A. Clifford, DVM, MS, DACVIM (Oncology)
Phil Bergman, DVM, MS, PhD, DACVIM (Oncology)
Rebecca Smedley, DVM, MS, DACVP

Presented by: VETERINARY INFORMATION NETWORK

RACE Provider #22

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

State of Licensure: CA(10507)

Additional licensure _____

Member signature *E. M. Gawlik*

This program has been approved for 12 hours of interactive continuing education credit in a non-medical subject manner in jurisdictions that recognize RACE approval.

Authorized by:

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



COMMITMENT TO EDUCATION
The VETERINARY INFORMATION NETWORK certifies that

Dr. Elaine Gawlik

State of Licensure: CA(10507)

has successfully completed

Veterinary Ethics

RACE Course # 22-11060

16 CE Hours PRAC116-0313 March 28 2013 - June 03 2013

Instructed by:

Carol Morgan, DVM, PhD

Raymond Anthony PhD

via the VETERINARY INFORMATION NETWORK Online CE program

Method of Delivery:

Subject Matter Category: Scientific/Clinical

Presented by

VETERINARY INFORMATION NETWORK

777 West Covell Blvd. • Davis, CA 95616 • Phone: 800.700.4636

Authorized by:

A handwritten signature in black ink, appearing to read 'Paul Pion', is written over a light background.

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

American • Association • of • Veterinary • State • Boards (RACE • CE • Provider • #22)

Course meets the requirements for 16 hours of continuing education credit in jurisdictions which recognize AAVSB RACE approval.

Participants should be aware that some boards have limitations on the number of hours accepted in certain categories and/or restrictions on certain methods of delivery of continuing education.

ELAINE M. GAWLIK D.V.M.
7854 Vanalden Ave
Reseda, CA 91335
818-447-7147

WORK HISTORY

- Veterinary Assistant** 02/2018 to present **Warner Center Pet Clinic** – Woodland Hills, CA. Administer patient treatments, monitor anesthesia, take radiographs, collect laboratory samples, perform laboratory tests.
- Veterinarian** 03/2013 to 10/2013 **Pet Medical Center Chatoak** – Chatsworth, CA
Small animal veterinarian. Responsible for diagnostics and routine surgeries. Also covered one night weekly for emergencies.
- Veterinarian** 02/2012 to 10/2012 **Beverly Oaks Animal Clinic** – Sherman Oaks, CA
Small animal veterinarian. Completed out-patient examinations as well as surgeries. Covered emergencies once weekly overnight.
- Veterinarian** 03/2011 to 11/2011 **Banfield Veterinary Clinic** – Canoga Park, CA
Small animal veterinarian. This hospital was primarily focused on wellness care. I performed many wellness examinations as well as spay and neuter surgeries.
- Veterinarian** 09/2008 to 01/2011 **Relief Veterinarian** – Southern California various locations
- Veterinarian** 07/2005 to 08/2008 **Warner Center Pet Clinic** - Woodland Hills, CA. Small animal medicine and surgery, with an emphasis on canine reproduction. Performed elective and emergency cesarean sections, surgical and trans cervical artificial insemination, general surgery and medicine, abdominal ultrasound.
- Veterinarian** 08/2004 to 08/2005 **Marysville Veterinary Hospital** – Small animal veterinarian. Performed medical diagnostics and surgeries. Also treated exotic mammals and birds.
- Veterinarian** 08/2000 to 08/2002 **Motherlode Pet Emergency** – Shingle Springs, CA
Emergency/Critical Care veterinarian. 4 nights/week.
- Veterinarian** 02/1990 to 10/2000 **Sacramento Veterinary Surgical Services** – Sacramento, CA. Head emergency veterinarian. Worked 4 nights/week. Responsible for all doctor scheduling.
- Veterinarian** 07/1989 to 02/1991 **Madison Avenue Veterinary Clinic** – Fair Oaks, CA. Small animal and exotic veterinarian. General medicine and surgery in a practice that treated approximately 50% birds, exotic mammals and reptiles.

EDUCATION AND ACCOMPLISHMENTS

Valedictorian: Birmingham High School 1981. GPA 4.0

Bachelor of Science: Animal and Veterinary Science 1985
California Polytechnic University, San Luis Obispo, CA
Graduated Summa Cum Laud GPA 3.97

Doctor of Veterinary Medicine UC Davis 1989.
Graduated with honors

EXHIBIT 4

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 ANTONIO LOPEZ, JR.
Deputy Attorney General
4 State Bar No. 206387
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2536
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Petition to Revoke
12 Probation Against:

13 **ELAINE MARIE GAWLIK AKA ELAINE**
14 **M. NESBITT**
17138 Burton Street
15 Van Nuys, CA 91406
Veterinarian License No. VET 10507

16 Respondent.

Case No. D1 2011 35

OAH No. 2016040055

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

17
18 FINDINGS OF FACT

19 1. On or about February 2, 2016, Complainant Annemarie Del Mugnaio, in her official
20 capacity as the Executive Officer of the Veterinary Medical Board, filed Petition to Revoke
21 Probation No. D1 2011 35 against Elaine Marie Gawlik aka Elaine M. Nesbitt (Respondent)
22 before the Board. (Petition to Revoke Probation attached as Exhibit A.)
23

24 2. On or about July 6, 1989, the Board issued Veterinarian License No. VET 10507 to
25 Respondent. The Veterinarian License was in full force and effect at all times relevant to the
26 charges brought in Petition to Revoke Probation No. D1 2011 35 and expired on May 19, 2016.
27 This lapse in licensure, however, pursuant to Business and Professions Code section 118(b) does
28 not deprive the Board of its authority to institute or continue this disciplinary proceeding.

1 3. On or about February 5, 2016, Respondent was served by Certified and First Class
2 Mail copies of the Petition to Revoke Probation No. D1 2011 35, Statement to Respondent,
3 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections
4 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business
5 and Professions Code section 4842.7 and California Code of Regulations, title 16, section 2004, is
6 required to be reported and maintained with the Board. Respondent's address of record was and
7 is:

8 17138 Burton Street
9 Van Nuys, CA 91406.

10 4. Service of the Petition to Revoke Probation was effective as a matter of law under the
11 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions
12 Code section 124.

13 5. On or about March 1, 2016, Respondent signed and returned a Notice of Defense,
14 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
15 address of record and it informed her that an administrative hearing in this matter was scheduled
16 for June 23, 2016. Respondent failed to appear at that hearing.

17 6. Government Code section 11506(c) states, in pertinent part:

18 (c) The respondent shall be entitled to a hearing on the merits if the respondent
19 files a notice of defense . . . and the notice shall be deemed a specific denial of all
20 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
21 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
22 discretion may nevertheless grant a hearing.

23 7. California Government Code section 11520(a) states, in pertinent part:

24 (a) If the respondent either fails to file a notice of defense . . . or to appear at
25 the hearing, the agency may take action based upon the respondent's express
26 admissions or upon other evidence and affidavits may be used as evidence without
27 any notice to respondent

28 8. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on

1 file at the Board's offices regarding the allegations contained in Petition to Revoke Probation No.
2 D1 2011 35, finds that the charges and allegations in Petition to Revoke Probation No. D1 2011
3 35, are separately and severally, found to be true and correct by clear and convincing evidence.
4

5 DETERMINATION OF ISSUES

6 1. Based on the foregoing findings of fact, Respondent Elaine Marie Gawlik aka Elaine
7 M. Nesbitt has subjected her Veterinarian License No. VET 10507 to discipline.

8 2. The agency has jurisdiction to adjudicate this case by default.

9 3. The Board is authorized to revoke Respondent's Veterinarian License based upon the
10 following violations alleged in the Petition to Revoke Probation which are supported by the
11 evidence contained in the Default Decision Evidence Packet in this case:

12 a. Violation of Probation Condition 1 (Obey All Laws) by being convicted of driving
13 under the influence on June 10, 2015 in the criminal proceeding entitled *The People of the State*
14 *of California v. Elaine Marie Gawlik*, Case No. 5VY01706.

15 b. Violation of Probation Condition 2 (Quarterly Reports) by failing to submit quarterly
16 reports as required.

17 c. Violation of Probation Condition 10 (Abstain from Alcohol Use) by being convicted
18 of driving under the influence with .08% or more of blood alcohol in case no. 5VY01706.

19 ///

20 ///

21 ///

ORDER

1
2 IT IS SO ORDERED that Veterinarian License No. VET 10507, heretofore issued to
3 Respondent Elaine Marie Gawlik aka Elaine M. Nesbitt, is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
5 written motion requesting that the Decision be vacated and stating the grounds relied on within
6 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
7 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

8 This Decision shall become effective on November 23, 2016

9 It is so ORDERED October 24, 2016

10
11 *Mark T. King, DVM*

12 Attachment:
13 Exhibit A: Petition to Revoke Probation

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
4 State Bar No. 225325
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2542
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Petition to Revoke
12 Probation Against,

Case No. D1 2011 35

13 **ELAINE MARIE GAWLIK**
14 **aka ELAINE M. NESBITT**
17138 Burton Street
Van Nuys, CA 91406

PETITION TO REVOKE PROBATION

15 Veterinarian License No. VET 10507

16 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Annemarie Del Mugnaio ("Complainant") brings this Petition to Revoke Probation
21 solely in her official capacity as the Executive Officer of the Veterinary Medical Board,
22 Department of Consumer Affairs ("Board").

23 2. On or about July 6, 1989, the Board issued Veterinarian License No. VET 10507 to
24 Elaine Marie Gawlik, aka Elaine M. Nesbitt ("Respondent"). The Veterinarian License was in
25 full force and effect at all times relevant to the charges brought herein and will expire on May 19,
26 2016, unless renewed.

27 3. In a disciplinary action entitled *In the Matter of the Accusation Against Elaine Marie*
28 *Gawlik, aka Elaine M. Nesbitt, Veterinarian License No. 10507, Case No. AV 2011 35, the*

1 Veterinary Medical Board, issued a Decision, effective August 23, 2012, in which Respondent's
2 Veterinarian License was revoked. However, the revocation was stayed and Respondent's
3 Veterinarian License was placed on probation for a period of five (5) years with certain terms and
4 conditions. A copy of that Decision is attached as Exhibit A and is incorporated by reference.

5 JURISDICTION

6 4. This Petition to Revoke Probation is brought before the Board under Probation Term
7 and Condition No. 9 of the Decision *In the Matter the of Accusation Against Elaine Marie*
8 *Gawlik, aka Elaine M. Nesbitt, Veterinary License No. 10507, Case No. AV 2011 35.*

9 5. At all times after the August 23, 2012 effective date of the Decision, Probation
10 Condition 9 stated:

11 **Violation of Probation.** If respondent violates probation in any respect, the
12 Board, after giving respondent notice and the opportunity to be heard, may revoke
13 probation and carry out the disciplinary order that was stayed. If an accusation or
14 petition to revoke probation is filed against respondent during probation, or if the
15 Attorney General's office has been requested to prepare any disciplinary action
16 against respondent's license, the Board shall have continuing jurisdiction until the
17 matter is final, and the period of probation shall be extended until the matter is
18 final.

16 FIRST CAUSE TO REVOKE PROBATION

17 (Failure to Obey All Laws)

18 6. At all times after the August 23, 2012 effective date of the Decision, Condition 1
19 stated, in part:

20 **Obey All Laws.** Respondent shall obey all federal and state laws and
21 regulations substantially related to the practice of veterinary medicine.

22 7. Respondent's probation is subject to revocation because she failed to comply with
23 Probation Condition 1, referenced above. The facts and circumstances regarding this violation
24 are as follows:

25 a. On or about June 10, 2015, after pleading nolo contendere, Respondent was convicted
26 of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving with
27 0.08% or more, by weight, of blood alcohol concentration ("BAC")], and one misdemeanor count
28 of violating Vehicle Code section 12500, subdivision (a) [driving without a valid driver's

1 license], in the criminal proceeding entitled *The People of the State of California v. Elaine Marie*
2 *Gawlik* (Super. Ct. L.A. County, 2015, No. 5VY01706). Respondent admitted to a prior
3 conviction for violating Vehicle Code section 23152, subdivision (b), in the criminal proceeding
4 entitled *The People of the State of California v. Elaine Marie Gawlik* (Super. Ct. L.A. County,
5 2010, No. 0VY04715). The court sentenced Respondent to 106 days in county jail, placed her on
6 60 months summary probation with terms and conditions, ordered her to complete a 18-month
7 second-offender alcohol and other drug education and counseling program, and ordered her to
8 pay fines. Respondent's BAC was 0.36%.

9 **SECOND CAUSE TO REVOKE PROBATION**

10 **(Failure to Submit Quarterly Reports)**

11 8. At all times after the August 23, 2012 effective date of the Decision, Condition 2
12 stated, in part:

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

18 9. Respondent's probation is subject to revocation because she failed to comply with
19 Probation Condition 2, referenced above. The facts and circumstances regarding this violation
20 are as follows:

21 a. On or about April 23, 2015, the Board sent a Violation Letter to Respondent
22 requesting to submit a Quarterly Report for January 1 – March 31, 2015 that was due on April 5,
23 2015. Respondent submitted the Quarterly Report on or about July 27, 2015, which was 113 days
24 after the due date.

25 b. On or about July 28, 2015, the Board sent a Violation Letter to Respondent requesting
26 to submit a Quarterly Report for April 1 – June 30, 2015 that was due on July 5, 2015.
27 Respondent submitted the Quarter Report on or about July 27, 2015, which was 22 days after the
28 due date.

1 c. On or about November 18, 2015, the Board sent a Violation Letter to Respondent
2 requesting to submit a Quarterly Report for July 1 – September 30, 2015 that was due on October
3 5, 2015. The Board has not received the report from Respondent.

4 d. Respondent failed to submit the following Quarterly Written Reports or submitted the
5 reports late, in accordance with the provisions of Condition 2:

Reporting Period	Due date	Date received
Apr-May-Jun 2014	July 5, 2014	Not Submitted
Jul-Aug-Sep 2014	October 5, 2014	Not Submitted
Oct-Nov-Dec 2014	January 5, 2015	May 5, 2015 (120 days late)
Jan-Feb-Mar 2015	April 5, 2015	July 27, 2015 (113 days late)
Apr-May-June 2015	July 5, 2015	July 27, 2015 (22 days late)
Jul-Aug-Sep 2015	October 5, 2015	Not Submitted

THIRD CAUSE TO REVOKE PROBATION

(Failure to Abstain from Alcohol Use)

14 10. At all times after the August 23, 2012 effective date of the Decision, Condition 19
15 stated, in part:

16 **Abstention from Alcohol Use.** Respondent shall abstain completely from
17 the use of alcoholic beverages.

18 11. Respondent's probation is subject to revocation because she failed to comply with
19 Probation Condition 19, referenced above. The facts and circumstances regarding this violation
20 are as follows:

21 a. Respondent failed to abstain completely from the use of alcoholic beverages in that
22 on or about June 10, 2015, she was convicted of one misdemeanor count of violating Vehicle
23 Code section 23152, subdivision (b) [driving with 0.08% or more, by weight, of BAC], in the
24 criminal proceeding entitled *The People of the State of California v. Elaine Marie Gawlik* (Super.
25 Ct. L.A. County, 2015, No. 5VY01706), as set for above in paragraph 7, as though set forth fully
26 herein.

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PRAYER

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

1. Revoking the probation that was granted by the Veterinary Medical Board in Case No. AV 2011 35 and imposing the disciplinary order that was stayed thereby revoking Veterinarian License No. VET 10507 issued to Elaine Marie Gawlik, aka Elaine M. Nesbitt;
2. Revoking or suspending Veterinarian License No. VET 10507, issued to Elaine Marie Gawlik, aka Elaine M. Nesbitt; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 2-2-16

Annemarie Del Mugnaio
by Candace Raney

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

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

In the Matter of the Accusation Against:)	Case No. AV 2011 35
)	
)	
ELAINE MARIE GAWLIK, aka)	OAH No. 2011100467
ELAINE M. NESBITT)	
Veterinary License No. VET 10507)	
)	
)	
Respondent.)	

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Veterinary Medical Board, Department of Consumer Affairs, as its Decision in the above-entitled matter.

This Decision shall become effective on August 23, 2012.

IT IS SO ORDERED July 24, 2012.



Tom Kendall, DVM, Board President
FOR THE VETERINARY MEDICAL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

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

In the Matter of the Accusation Against:

ELAINE MARIE GAWLIK, aka ELAINE
M. NESBITT,
Veterinary License No. 10507,

Respondent.

Case No. AV 2011 35

OAH No. 2011100467

PROPOSED DECISION

Howard W. Cohen, Administrative Law Judge of the Office of Administrative Hearings, heard this matter in Los Angeles on May 8, 2012.

Randy Mailman, Deputy Attorney General, appeared on behalf of complainant Susan M. Geranen, Executive Officer of the Veterinary Medical Board (Board), Department of Consumer Affairs, State of California.

Grace E. Ayers, attorney at law, represented respondent.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on May 8, 2012.

FACTUAL FINDINGS

Jurisdiction and Parties

1. Complainant filed the Accusation in her official capacity. Respondent timely filed a Notice of Defense.

2. The Board issued license number 10507 to respondent on July 6, 1989. The license has been in full force and effect at all times relevant to this proceeding and is scheduled to expire on June 30, 2013, unless renewed. The Board has previously issued two citations to respondent, on May 28, 2002, and on February 23, 2004, and ordered respondent to pay a fine of \$501 for each citation.

Respondent's Criminal Convictions

3. On November 17, 2010, in the Superior Court of California, Los Angeles County, Case No. OVY04715, respondent pled nolo contendere and was convicted of violating Vehicle Code section 23152, subdivision (b) (driving with greater than .08 percent blood alcohol), a misdemeanor. Respondent admitted to her August and November 2002 convictions for violation of Vehicle Code sections 23152, subdivisions (a) and (b), respectively. The court found a factual basis for and accepted the plea. The court suspended imposition of sentence and placed respondent on summary probation for a period of 60 months on terms and conditions including that she serve 180 days in Los Angeles County Jail, wear a SCRAM bracelet until her day of surrender for incarceration, pay fines, fees, and assessments totaling \$2,299, enroll within 21 days in an SB 38 alcohol treatment program, participate in an 18-month treatment or counseling program as directed, and install an ignition interlock device on her vehicles. The court revoked respondent's driver's license for three years and disallowed the issuance of a restricted license, finding that respondent poses a traffic safety or public safety risk and is a habitual traffic offender. On January 7, 2011, respondent surrendered for 180 days of County Jail and an additional 16 days of County Jail in lieu of certain fines.

4. The facts and circumstances underlying the conviction are that, on September 10, 2010, respondent crashed into two parked cars while operating her vehicle with a blood alcohol content of 0.27 to 0.31 percent.

5. On June 13, 2007, in the Superior Court of California, Yuba County, Case No. CRM07-74, respondent pled guilty and was convicted of violating Penal Code section 647, subdivision (f) (disorderly conduct—unable to exercise care for her own safety or the safety of others by reason of being under the influence of intoxicating liquor), a misdemeanor. The court suspended imposition of sentence and placed respondent on summary probation for a period of 24 months on terms and conditions including that she pay fines and fees totaling \$315, abstain from alcohol use, and comply with all directives of the Board.

6. The facts and circumstances underlying the conviction are that, on January 16, 2007, respondent, while intoxicated, rode her bicycle to the store to buy vodka, leaving her infant daughter at home unattended. Respondent testified that "I had bad judgment."

7. On November 20, 2002, in the Superior Court of California, County of Inyo, Case No. 231784, respondent pled no contest and was convicted of violating Vehicle Code section 23152, subdivision (b) (driving with greater than .08 percent blood alcohol), a misdemeanor. The court suspended imposition of sentence and placed respondent on summary probation for a period of 36 months on terms and conditions including that she serve 120 days in jail, which can be satisfied by a residential treatment program of comparable duration, have her driver's license revoked for three years, pay fines and fees totaling \$1,670, enroll in and successfully complete an SB 38 alcohol treatment program, and abstain from alcohol use.

8. On August 9, 2002, in the Superior Court of California, County of Sacramento, Case No. 2T00145, respondent pled nolo contendere and was convicted of violating Vehicle Code section 23152, subdivision (a) (driving with greater than .08 percent blood alcohol), a misdemeanor. The court found a factual basis for and accepted the plea. The court suspended imposition of sentence and placed respondent on informal probation for a period of four years on terms and conditions including that she pay fines and fees totaling \$1,477, serve 10 days in county jail, and have her driver's license restricted.

9. Probation for respondent's November 2010 conviction is scheduled to end in November 2015. Respondent testified that she served jail time in lieu of most of the fines assessed with respect to her November 2010 conviction, and that she paid the balance in early 2011. She has not yet completed the court-ordered alcohol program. None of her convictions has been expunged.

Respondent's License Renewal Application

10. On June 7, 2007, respondent submitted a License Renewal Application to the Board in order to renew her veterinary license through June 30, 2009. Respondent signed the application under penalty of perjury. The application asked, "Since you last renewed your license, have you been convicted or pled nolo contendere to a felony or misdemeanor . . . ?" Respondent put a check next to the response, "No." (Ex. 11.) The response was accurate.

11. Six days later, on June 13, 2007, respondent was convicted of a misdemeanor. (Factual Finding 5.) She did not immediately report the conviction to the Board; rather, she testified, she did not disclose it until "much later," when she received an inquiry from the Board.

12. On July 1, 2009, respondent submitted another License Renewal Application to the Board in order to renew her veterinary license through June 30, 2011. Respondent signed the application under penalty of perjury. The application asked, "Since you last renewed your license, have you been convicted or pled nolo contendere to a felony or misdemeanor . . . ?" Respondent put a check next to the response, "No." (Ex. 11.) That response was not accurate; respondent had, in fact, been convicted of a misdemeanor after her last license renewal. (Factual Findings 5, 11.)

13. In mitigation, respondent submitted the July 2009 application one year before her sobriety date, the date of the arrest leading to her most recent conviction. (Factual Finding 14, below.) But rather than rely on that fact to explain the non-disclosure, respondent testified unconvincingly that she did not think she had to check the "Yes" response because she had already disclosed the conviction to the Board. (See Factual Finding 11.)

Respondent's Rehabilitation

14. Respondent is 48 years old. She testified that she is an alcoholic, that she was a binge vodka drinker, and that her drinking problem began in the late 1990s. She testified that she has been sober since September 10, 2010, the date of her last arrest, that she has not

drunk any alcohol since that date, and that she works towards sobriety every day. She attends AA meetings every week as a condition of her probation, in addition to attending a driver safety program. She has had a sponsor at AA since September 10, 2010. She last completed the 12 steps eight or nine months ago, and has started over. She was also evaluated by a substance abuse counselor at the court-ordered driver safety program. She currently sees a psychiatrist for individual sessions through Kaiser Permanente to address her alcohol problem and depression. She testified that she takes Acamprosate to reduce her craving for alcohol and she takes Floxacin for depression. She requested the prescription for Acamprosate because she was having difficulty within her alcohol program and did not want to slip. She is grateful that she has the resources to pay for the counseling and medication. She pays \$659 per month in health insurance premiums; if she loses her job, she testified, she will not be able to afford to continue seeing her psychiatrist. She did not submit the testimony of any health care professional or any documentary evidence of the progress or prognosis of her psychiatric and medical treatment for alcoholism. When asked at hearing whether she had assessed the cause or trigger for her excessive drinking, she testified, "I wish I could answer that. I'm an alcoholic."

15. Respondent acknowledges her past and testified that she has done things she is not proud of. She testified that her past does not define her, it directs her toward recovery. She tries to be a good mother to her daughter, and believes she is a great veterinarian. She lives at her parents' house with her parents and her daughter; her daughter's father, who was present at hearing, helps financially. She testified that "there's probably a wake of disaster behind me," but she is doing her best to clean it up and to keep doing her job in a sober manner.

16. Since January 1, 2012, respondent has been employed as a relief veterinarian with All Creatures Animal Emergency Center (All Creatures). She disclosed her convictions and this administrative action to All Creatures. She expected her job with them to become a long-term full-time position, but it did not. Since April 15, 2012, respondent has also been employed at Beverly Oaks Pet Hospital (Beverly Oaks) on a full-time basis as a veterinarian with a general and emergency practice. She has not disclosed her convictions or this administrative action to Beverly Oaks because she is worried about the effect of the disclosure on her employment there. She has never been disciplined by her employers. She is very happy in her work; she has never worked at anything else since she graduated from college. As a teenager, she volunteered for a veterinarian, and become employed by that veterinarian in high school. She plans to remain employed as a veterinarian, doing what she loves to do.

17. Respondent submitted a letter from her AA sponsor, who wrote that respondent "is committed to her sobriety," that respondent is dedicated to her work and her daughter, and that respondent knows that "without sobriety, neither will be secure." (Ex. A.)

18. Respondent also submitted two character reference letters. One letter is from the administrative director at All Creatures, who wrote that respondent is "compassionate, organized, efficient, extremely competent," and "a wonderful teacher to the staff." (Ex. C.)

The other letter, addressed “Dear Prospective Veterinary Employer,” is from Robert A. Richardson, DVM, who wrote to recommend respondent; Dr. Richardson worked with respondent in the 1990s, and found her to be diligent, organized, and “remarkably capable.” (Ex. E.)

19. Respondent also submitted a letter from the counselor at her driver safety program, who wrote that she is “one of our most applied students” who “always makes great contributions” to discussions and who is “committed [*sic*] to completing her program in good standing and her progress reports demonstrate it.” (Ex. D.)

Costs of Enforcement

20. The Board incurred reasonable costs of enforcement, consisting of Attorney General fees, in the amount of \$2,260.

LEGAL CONCLUSIONS

1. The Board may suspend or revoke a license to practice veterinary medicine on any of the grounds set forth in Business and Professions Code section 4883. (Bus. & Prof. Code, § 4875.) Those grounds include:

a. Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine (§ 4883, subd. (a));¹

b. Unprofessional conduct, which includes the use of alcohol to the extent it is dangerous or injurious to any other person or to the public, and which also includes the conviction of more than one misdemeanor or any felony involving the use of alcohol (§ 4883, subd. (g)); and

c. Fraud, misrepresentation, or deception in obtaining the license or registration. (§ 4883, subd. (k).)

2. The Board bears the burden of proof in this matter as it seeks to discipline respondent’s license. (*Bley v. Board of Dental Examiners* (1932) 120 Cal.App. 426, 430-431.) The standard of proof to establish the charging allegations in this case is “clear and

¹ A crime or act is substantially related to the qualifications, functions, or duties of a licensed veterinarian “if to a substantial degree it evidences present or potential unfitness of [the licensee] to perform the functions authorized by his or her license in a manner consistent with the public health, safety or welfare.” (Cal. Code Regs., tit. 16, § 2040.) A conviction may form the basis for suspending or revoking a license if the criminal conduct underlying the conviction bears a substantial relationship to the qualifications, functions, and duties of the license. (*Morrison v. State Board of Education* (1969) 1 Cal.3d 214; *Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 769-770.)

convincing” evidence. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.) This means that the burden rests with complainant to offer proof that is clear, explicit, and unequivocal, “so clear as to leave no substantial doubt; sufficiently strong to command the unhesitating assent of every reasonable mind. [Citations omitted.]” (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478, 487.)

3. Cause exists to suspend or revoke respondent’s license under section 4883, subdivision (a), by reason of Factual Findings 3 through 9.

4. Cause exists to suspend or revoke respondent’s license under section 4883, subdivision (g), in that respondent’s four convictions for four separate alcohol-related offenses within the past 10 years demonstrate unprofessional conduct, by reason of Factual Findings 3 through 9.

5. Cause exists to suspend or revoke respondent’s license under section 4883, subdivision (k), for providing an answer on her license renewal application that was false and known to respondent to be false, by reason of Factual Findings 10 through 13.

6. California Code of Regulations, title 16, section 2041, subdivision (b), provides that when the Board is considering suspending or revoking a license on the ground that the licensee has been convicted of a crime, and is evaluating the licensee’s rehabilitation and eligibility for a license, the following criteria are pertinent:

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

7. The Board has issued disciplinary guidelines to assist in the discipline of a license. Those “Veterinary Medical Board Disciplinary Guidelines, May 2002 Edition” (Guidelines) are incorporated by reference at California Code of Regulations, title 16, section 2006. The Guidelines provide that, for conviction of a substantially-related crime, rehabilitation measures may include pro bono services, specific training in areas of weakness, full restitution to persons harmed by the respondent, completion of treatment or other conditions of probation ordered by the court, and full compliance with all laws since

the date of the criminal act. "More severe penalties are appropriate if the criminal act threatened the life of an animal, there was more than one offense, there have been no or very few rehabilitation efforts, and there were no mitigating circumstances at the time the offenses were committed."

8. Considering all of the circumstances and the factors found at California Code of Regulations, title 16, section 2041, subdivision (b), as well as the Guidelines, respondent has not established sufficient rehabilitation to demonstrate that, without appropriate terms and conditions of probation, she will be able to practice in a manner that does not create potential harm to the public and that is consistent with the public health, safety, or welfare. Respondent has had four alcohol-related convictions over the past 10 years, including one as recently as 18 months ago. The fact that respondent will not complete probation for the most recent conviction until November 2015, and the fact that she has not completed the court-ordered alcohol program, means that she will not be able to fully demonstrate rehabilitation for at least another three years. (See *In re Gossage* (2000) 23 Cal.4th 1080, 1099 [little weight placed on fact that licensee has engaged in good behavior while on probation].) Respondent did not demonstrate an especially high degree of self-awareness, stating that she does not know, even after her driver safety program sessions, psychiatry sessions, and AA meetings, what triggers her binge drinking. She provided no documentation from her psychiatrist regarding her prognosis or the effectiveness of the medications she takes. She was dishonest on her 2009 license renewal application and was not entirely forthcoming about that at hearing. And she has failed to inform her employer of her criminal record because she fears losing her job. On the other hand, respondent has been licensed for almost 23 years, during which time she has received only two citations from the Board and has never been disciplined by her employers. It is clear from the evidence that she is devoted to the practice of veterinary medicine and has been since she was a teenager. Although respondent's alcoholism has the continuing potential to result in harm to the patients she sees in her veterinary practice, there is no evidence that it has caused actual harm. Respondent has been sober for nearly two years; when she thought she might revert to drinking, she sought appropriate medical attention. (Factual Findings 3-19.)

9. These facts are of sufficient weight to warrant a 60-day suspension of respondent's license and five years of probation in order to protect the public and respondent's patients. This should be sufficient to satisfy the statutes relating to licensing of professions generally, which are designed to protect the public from dishonest, untruthful, and disreputable licensees. (*Arneson v. Fox* (1980) 28 Cal.3d 440, 451.) Proceedings to discipline a license are conducted to protect the public, not to punish. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 165); see also *Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 817.)

10. Reasonable costs of investigation and prosecution can be recovered under Business and Professions Code section 125.3. The amount of costs to be recovered from respondent is therefore \$2,260. (See Factual Finding 18.)

ORDER

All licenses and licensing rights of respondent Elaine Marie Gawlik, also known as Elaine M. Nesbitt, to practice veterinary medicine in California, including license number 10507, are revoked. The revocation is stayed; respondent's license shall be suspended for a period of 60 days, after which respondent shall be placed on five years' probation on the following terms and conditions:

1. OBEY ALL LAWS

Respondent shall obey all federal and state laws and regulations substantially related to the practice of veterinary medicine.

2. QUARTERLY REPORTS AND INTERVIEWS

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

3. COOPERATION WITH PROBATION SURVEILLANCE

Respondent shall comply with the Board's probation surveillance program.

4. NO PRECEPTORSHIPS OR SUPERVISION OF INTERNS

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

5. NOTICE TO EMPLOYERS

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

6. NOTICE TO EMPLOYEES.

Respondent shall, upon or before the effective date of this Decision, post or circulate a notice which actually recites the offenses for which respondent has been disciplined and the terms

and conditions of probation, to all veterinary and animal health technician employees, and to any preceptor, intern, or extern involved in his/her veterinary practice. Within fifteen (15) days of the effective date of this Decision, respondent shall cause his/her employees to report to the Board in writing, acknowledging the employees have read the Accusation and Decision in the case and understand respondent's terms and conditions of probation. Relief veterinarians notify employees immediately.

7. POSTED NOTICE OF SUSPENSION

If suspension is ordered, respondent shall post a notice of the Board's Order of Suspension, in a place clearly visible to the public. Said notice, provided by the Board, shall remain so posted during the entire period of actual suspension.

8. TOLLING OF PROBATION

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

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

9. VIOLATION OF PROBATION

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

10. COMPLETION OF PROBATION

Upon successful completion of probation, respondent's license will be fully restored.

11. COST RECOVERY AND PAYMENT OF FINES

Pursuant to Section 125.3 of the California Business and Professions Code, within thirty (30) days of the effective date of this decision, respondent shall pay to the Board its enforcement costs including investigation, hearing, and probationary monitoring in the amount of \$2,260 or the respondent shall make said payments as directed by the Board. **FAILURE TO PAY THIS AMOUNT TO THE BOARD SHALL RESULT IN AUTOMATIC REVOCATION**

OF THE LICENSE FORTHWITH, WITHOUT FURTHER NOTICE OR AN OPPORTUNITY TO BE HEARD.

12. ACTUAL SUSPENSION - INDIVIDUAL LICENSE

As part of probation, respondent is suspended from the practice of veterinary medicine for 60 days, beginning the effective date of this Decision.

During said suspension, respondent shall not enter any veterinary hospital which is licensed by the Board. Additionally, respondent shall not manage, administer, or be a consultant to any veterinary hospital or any veterinarian during the period of actual suspension and shall not engage in any veterinary-related service or activity.

13. SUPERVISED PRACTICE

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

Within thirty (30) days of the effective date of the Decision, respondent shall have his/her supervisor submit a report to the Board in writing stating the supervisor has read the Decision in Case Number AV 2011 35, OAH Number 2011100467. Should respondent change employment, respondent shall have his/her new supervisor, within fifteen (15) days after employment commences, submit a report to the Board in writing stating the supervisor has read the Decision in Case Number AV 2011 35, OAH Number 2011100467.

Respondent's supervisor shall, on a basis to be determined by the Board, review and evaluate all or a designated portion of patient records of those patients for whom respondent provides treatment or consultation during the period of supervised practice. The supervisor shall

- 1) review these records to assess the medical necessity and appropriateness of respondent's treatment;
- 2) respondent's compliance with community standards of practice in the diagnosis and treatment of animal patients;
- 3) respondent's maintenance of necessary and appropriateness of respondent's treatment;
- 4) respondent's maintenance of necessary and appropriate records and chart entries; and
- 5) respondent's compliance with existing statutes and regulation governing the practice of veterinary medicine.

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

basis for his/her conclusions and opinions. Additionally, the supervisor shall maintain and submit with his/her monthly reports a log designating the patient charts reviewed, the date(s) of service reviewed, and the date upon which the review occurred.

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

14. NO OWNERSHIP

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

15. NO MANAGEMENT OR ADMINISTRATION

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

16. PSYCHOTHERAPY

Within thirty (30) days of the effective date of this Decision, respondent shall submit to the Board, for its prior approval, the name and qualifications of one of more psychotherapists of respondent's choice. Upon approval, respondent shall undergo and continue treatment until the Board deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the Board. The Board may require respondent to undergo psychiatric evaluations by a Board-appointed psychiatrist. All costs shall be borne by respondent.

17. REHABILITATION PROGRAM - ALCOHOL OR DRUG

Within thirty (30) days of the effective date of this Decision, respondent shall submit in writing an alcohol rehabilitation program in which respondent shall participate (for the duration of probation) to the Board for its prior approval. In the quarterly written reports to the Board, respondent shall provide documentary evidence of continuing satisfactory participation in this program. All costs shall be borne by respondent.

18. SUBMIT BIOLOGICAL FLUID SAMPLES

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

19. ABSTENTION FROM ALCOHOL USE

Respondent shall abstain completely from the use of alcoholic beverages.

//

20. FINE

Respondent shall pay to the Board a fine in the amount of \$2,000 pursuant to Business and Professions Code sections 4875 and 4883. Respondent shall make said payments as instructed by the Board.

Pursuant to Business and Professions Code Section 125.3, enforcement costs (investigative, legal and expert review), up to the time of the hearing, can be recovered.

21. ETHICAL TRAINING

Respondent shall take ethical training courses during the probationary period for a number of hours determined by the Board.

DATED: June 7, 2012



HOWARD W. COHEN
Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RANDY M. MAILMAN
Deputy Attorney General
4 State Bar No. 246134
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2442
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
VETERINARY MEDICAL BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. AV 2011 35

11 **ELAINE MARIE GAWLIK, AKA ELAINE**
12 **M. NESBITT**
13 **17138 Burton Street**
Van Nuys, CA 91406
14 **Veterinary License No. 10507**

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Susan M. Geranen ("Complainant") brings this Accusation solely in her official
19 capacity as the Executive Officer of the Veterinary Medical Board, Department of Consumer
20 Affairs.

21 2. On or about July 6, 1989, the Veterinary Medical Board issued Veterinary License
22 Number 10507 to Elaine Marie Gawlik, aka Elaine M. Nesbitt ("Respondent"). The Veterinary
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on June 30, 2013, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Veterinary Medical Board ("Board"),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code ("Code") unless otherwise indicated.

1 4. Section 490 of the Code states, "A board may suspend or revoke a license on the
2 ground that the licensee has been convicted of a crime, if the crime is substantially related to the
3 qualifications, functions, or duties of the business or profession for which the license was issued.
4 A conviction within the meaning of this section means a plea or verdict of guilty or a conviction
5 following a plea of nolo contendere. Any action which a board is permitted to take following the
6 establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment
7 of conviction has been affirmed on appeal, or when an order granting probation is made
8 suspending the imposition of sentence, irrespective of a subsequent order under the provisions of
9 Section 1203.4 of the Penal Code."

10 6. Section 4883 of the Code states, in pertinent part:

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

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

16 ...

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

18 ...

19 (k) The employment of fraud, misrepresentation, or deception in obtaining the license or
20 registration..."

21 7. Section 4885 of the Code states, "A plea or verdict of guilty or a conviction following
22 a plea of nolo contendere made to a charge of a felony or of any offense related to the practice of
23 veterinary medicine or the practice of a veterinary technician is deemed to be a conviction within
24 the meaning of this article. The board may order the license or registration to be suspended or
25 revoked, or assess a fine as provided in Section 4883 or may decline to issue a license or
26 registration, when the time for appeal has elapsed, or the judgment of conviction has been
27 affirmed on appeal or when an order granting probation is made suspending the imposition of
28 sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1210.1, or

1 3063.1 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a
2 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,
3 or indictment.”

4 REGULATORY PROVISIONS

5 8. California Code of Regulations, title 16, section 2040, states, in pertinent part:

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

12 FIRST CAUSE FOR DISCIPLINE

13 (Convictions for Substantially Related Crime)

14 9. Respondent is subject to disciplinary action under sections 490 and 4883 (a) of the
15 Code, as defined in California Code of Regulations, title 16, section 2040, in that Respondent was
16 convicted of crimes substantially related to the qualifications, functions, or duties of a
17 veterinarian as follows:

18 10. On or about November 17, 2010, in the criminal matter entitled *People vs. Elaine*
19 *Marie Gawlik* (Los Angeles County Superior Court Case No. 0VY04715), Respondent was
20 convicted of driving with a blood alcohol level of .08% or above in violation of California
21 Vehicle Code section 23152, subdivision (b). Respondent was ordered to serve 180 days in jail,
22 pay fines in the amount of \$2,299, and wear a SCRAM device until she surrendered to county jail
23 to serve her jail sentence. The basis for the conviction is that on September 10, 2010, while
24 operating her vehicle at a blood alcohol level of .27%, Respondent crashed into two parked cars.

25 11. On or about June 13, 2007, in the criminal matter entitled *People vs. Elaine Marie*
26 *Gawlik* (Yuba County Superior Court Case No. CRM07-74), Respondent was convicted of being
27 under the influence of alcohol to the extent she cannot care for the safety of herself or others in
28 violation of California Penal Code section 647, subdivision (f), a misdemeanor.

1 12. On or about November 20, 2002, in the criminal matter entitled *People vs. Elaine*
2 *Marie Gawlik* (Inyo County Superior Court Case No. o231784), Respondent was convicted of
3 driving with a blood alcohol level of .08% or above in violation of California Vehicle Code
4 section 23152, subdivision (b).

5 13. On or about August 9, 2002, in the criminal matter entitled *People vs. Elaine Marie*
6 *Gawlik* (Sacramento County Superior Court Case No. 2T00145), Respondent was convicted of
7 driving under the influence of alcohol and/or drugs in violation of California Vehicle Code
8 section 23152, subdivision (a).

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Misrepresentation in Obtaining License)**

11 14. Respondent is subject to disciplinary action under section 4883 (k) of the Code in that
12 Respondent employed fraud, misrepresentation, or deception in obtaining her license. The
13 conduct is more particularly described as follows:

14 15. On or about June 7, 2007, Respondent submitted a renewal application to the Board,
15 to renew her veterinary license through June 30, 2009. On the renewal application, Respondent
16 was asked the following question, "Since you last renewed your license, have you been convicted
17 or pled nolo contendere to a felony or misdemeanor, other than a minor traffic violation, or had
18 any disciplinary action taken against you by any licensing regulatory agency in this or any other
19 state?"

20 16. To this question, Respondent answered, "No."

21 17. On or about June 13, 2007, in the criminal matter entitled *People vs. Elaine Marie*
22 *Gawlik* (Yuba County Superior Court Case No. CRM07-74), Respondent was convicted of being
23 under the influence of alcohol to the extent she cannot care for the safety of herself or others in
24 violation of California Penal Code section 647, subdivision (f), a misdemeanor.

25 18. On or about July 1, 2009, Respondent submitted a renewal application to the Board,
26 to renew her veterinary license through June 30, 2011. On the renewal application, Respondent
27 was asked the following questions, "Since you last renewed your license, have you been
28 convicted or pled nolo contendere to a felony or misdemeanor, other than a minor traffic

1 violation, or had any disciplinary action taken against you by any licensing regulatory agency in
2 this or any other state?"

3 19. To this question, Respondent answered, "No."

4 20. Respondent signed the July 1, 2009 renewal application under penalty of perjury
5 attesting to the truthfulness of her responses. Respondent misrepresented her criminal history
6 because she had in fact suffered a misdemeanor conviction since she last renewed her license.
7 The conviction is more particularly described in paragraph 18, above, and is herein incorporated
8 by reference.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct)**

11 21. Respondent is subject to disciplinary action under section 4883 (g) of the Code in that
12 Respondent engaged in unprofessional conduct as more fully described in paragraphs 10 through
13 13, inclusive, above, and herein incorporated by reference.

14 **OTHER DISCIPLINARY CONSIDERATIONS**

15 22. To determine the degree of discipline, if any, to be imposed on Respondent,
16 Complainant alleges that on or about May 28, 2002, in a prior action, the Veterinary Medical
17 Board issued Citation Number 1482-C and ordered Respondent to pay a fine in the amount of
18 \$501.00. That Citation is now final and is incorporated by reference as if fully set forth.

19 23. To determine the degree of discipline, if any, to be imposed on Respondent,
20 Complainant alleges that on or about February 23, 2004, in a prior action, the Veterinary Medical
21 Board issued Citation Number 1618-C and ordered Respondent to pay a fine in the amount of
22 \$501.00. That Citation is now final and is incorporated by reference as if fully set forth.

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PRAYER

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

1. Revoking or suspending Veterinary License Number 10507, issued to Elaine Marie Gawlik, aka Elaine M. Nesbitt;
2. Ordering Elaine Marie Gawlik, aka Elaine M. Nesbitt to pay the Veterinary Medical Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/16/11



SUSAN M. GERANEN
Executive Officer
Veterinary Medical Board
Department of Consumer Affairs
State of California
Complainant

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