

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

BOARD OF VETERINARY MEDICINE

**In Re: David Sobel, DVM
Applicant for Renewal
License No. 1134**

Docket No.: 23-VET-002

NOTICE OF DECISION DATED 10/4/23

Enclosed please find a copy of the Board's Order dated 10/4/23 relative to:

DISCIPLINARY HEARING FINAL DECISION AND ORDER

MOTIONS/PETITIONS FOR RECONSIDERATION OR REHEARING:

Pursuant to N.H. Code Admin. R. Plc 206.29(a) ("Rules") and RSA 310:14, II, motions/petitions for reconsideration or rehearing shall be filed within 30 calendar days after service of a final adjudicative order. Pursuant to Rule 206.29(b), the Motion/Petition shall: 1) clearly identify points of law or fact that the movant asserts the Board and/or Presiding Officer has overlooked or misapprehended; 2) contain such argument in support of the motion as the movant desires to present; and 3) be served by the movant on all other participants in accordance with Rule 206.11. Pursuant to Rule 206.29, no answer to a motion/petition for reconsideration or rehearing shall be required, but any answer or objection filed shall be delivered to the Presiding Officer's Office within 5 working days following receipt of service of the motion/petition for reconsideration. Pursuant to RSA 541:5, upon the filing of such motion/petition for rehearing or reconsideration, the Board or Presiding Officer shall within ten days either grant or deny the same, or suspend the order or decision complained of pending further consideration, and any order of suspension may be upon such terms and conditions as the Board or Presiding Officer may prescribe.

RIGHT TO APPEAL:

Pursuant to RSA 310:14, III, appeals from a decision on a rehearing and/or motion for reconsideration shall be by appeal to the New Hampshire Supreme Court pursuant to RSA 541. Pursuant to RSA 541:6, within 30 days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the decision on such rehearing, the applicant may appeal by petition to the New Hampshire Supreme Court. Pursuant to RSA 310:14, III, no sanction shall be stayed by the Board during an appeal.

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**FINAL ORDER
AND DECISION - 09/20/23**

I. ATTENDEES:

Board Members and Administrative Staff and Counsel:

Jill Patronagio, Board Vice President (acting President for meeting) and Member
Robyn Eldredge, Board Member
Claire Timbas, Board Member
Elaine Forst, Board Member

Traci Weber, OPLC Board Administrator
Elizabeth, OPLC Board Counsel

Presiding Officer:

Nikolas K. Frye, OPLC Hearings Examiner

Parties:

David Sobel, Applicant

II. CASE SUMMARY/PROCEDURAL HISTORY:

On or about 03/10/23, David Sobel (“Respondent”) informed the Board in writing that he was delinquent with his Continuing Education requirements for the 2023-2025 renewal cycle and was seeking to resolve the situation and bring his license current. His correspondence also indicated he had taken some

coursework that he believed might suffice in fulfilling requirements. On 04/19/23, the Board voted to commence an adjudicative proceeding to obtain clarification on whether the Licensee meets the requirements for Continuing Education requirements for the 2023-2025 renewal cycle. The Board held a final adjudicative hearing on 09/20/23 at 10:00 am. Pursuant to RSA 310:11, III(b), Nikolas K. Frye, Esq., OPLC Hearings Examiner was appointed by the Board as presiding officer.

III. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:

The Applicant appeared for a hearing to clarify whether he had obtained the necessary continuing education requirements for the 2023-2025 renewal cycle. The issues before the Board were:

- (1) Whether Respondent can demonstrate that he meets the requirements of RSA 332-B:13, III, Rule 403.01, and Rule 401.01, and is therefore eligible for renewal.
- (2) If the Respondent fails to demonstrate that he meets the continuing education requirements for renewal, whether Respondent can demonstrate “good cause” for an extension as defined in Rules 401.02(b) and (c) *and*, pursuant to Rule 401.02(a): 1) that he requested an extension in writing prior to expiration date of the license; 2) what form of continuing education he is attending and when; and 3) that he will notify the Board when the continuing education hours have been accumulated.
- (3) If the Respondent fails to demonstrate that he meets the continuing education requirements or that he should not be granted an extension, what if any other lawful action the Board should take with respect to the Respondent’s license, including but not limited to disciplinary action pursuant to RSA 332-B:14.

NOH at II(c).

Pursuant to Plc Rule 206.24(e), the Applicant had the burden of proving his case by a preponderance of the evidence. The Applicant was sworn in and testified on his own behalf. Additionally, the Board considered his application and accompanying documents and took administrative notice of the Licensee’s licensing file.

The Licensee testified by reading into the record a 03/10/23 letter he had previously submitted to the Board in relation to this matter. Upon Board questioning, the Licensee said he had paperwork related to the continuing education course work he alludes to in his letter. He said the BSAVA conference was 4

days, consisting of approximately 6 contact hours per day. He also stated that 1 hour of the conference was the speech he gave. The Licensee apologized and explained that the primary cause of his situation was his own oversight.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW:

After reviewing all the evidence and accounting for the demeanor and credibility of the witness, the Board finds and concludes that the Applicant has not met his burden of proof that he meets the requirements of RSA 332-B:13, III, Rule 403.01, and Rule 401.01, and is therefore eligible for renewal. As the Licensee’s testimony and written statement show, the Licensee has failed to provide written documentation that he meets the requirements of the continuing education rules. Further the Board finds and concludes that the Applicant has not met his burden of proof that there is “good cause” for an extension as defined in Rules 401.02(b) and (c) *and*, pursuant to Rule 401.02(a): 1) that he requested an extension in writing prior to expiration date of the license; 2) what form of continuing education he is attending and when; and 3) that he will notify the Board when the continuing education hours have been accumulated. As the Licensee’s written testimony and letter show, the primary cause of the failure to meet the rule requirements was oversight. Nonetheless, pursuant to Vet Rule 207, the Board concludes that the evidence shows good cause exists to substantively waive the requirements of Rules 401.02(a) and (b). *See* Rule 207.01(g). Therefore, the Board grants the Licensee an extension for meeting the requirements of RSA 332-B:13, III, Rule 403.01, and Rule 401.01 on the conditions discussed in the “Orders” section of this final order and decision.

V. CONCLUSION AND DECISION:

Pursuant to Rules 207 and 401.02, the Board hereby GRANTS the Licensee an **EXTENSION** for providing documentation that he has complied with RSA 332-B:13, III, Rule 403.01, and Rule 401.01 on the following **CONDITIONS**:

1. On or before 12/31/23, the Licensee shall file with the Board documentation demonstrating that he has complied with RSA 332-B:13, III, Rule 403.01, and Rule 401.01; and
2. In complying with provision 1 above, the Licensee may use documentation of continuing education coursework completed outside of the past continuing education cycle to meet the 24 hours of continuing education he is missing; however, that completed coursework shall *not* be used again when submitting documentation for the 2024 continuing education requirements; and
3. Pursuant to Rule 403.01(k), the Licensee may submit documentation of the coursework he testified as having previously completed that is non-RACE to see whether the Board will accept it toward his outstanding continuing education requirements.¹

DATED: 10/4/2023

_____/s/ Nikolas K. Frye, Esq._____
Nikolas K. Frye, Esq., Presiding Officer
Hearings Examiner-
New Hampshire Office of
Professional Licensure & Certification
7 Eagle Square
Concord, NH 03301

¹ The Board substantively waives the portion of the rule that requires that it be “pre-approved”.