

BEFORE THE WEST VIRGINIA BOARD OF VETERINARY MEDICINE

**WEST VIRGINIA BOARD OF
VETERINARY MEDICINE,**

COMPLAINANT,

v.

CASE NO. 0320A

**JAMES RADCLIFFE, DVM,
VETERINARIAN LICENSE NO. 7925,**

RESPONDENT.

CONSENT AGREEMENT AND ORDER

NOW COME the West Virginia Board of Veterinary Medicine ("Board") and James Radcliffe, DVM ("Respondent") for the purpose of agreeing to disciplinary action which shall be taken against Respondent in the above-referenced matter. As a means of compromise, the Board and Respondent hereby agree to resolve this matter by and through a voluntary agreement and consent to disciplinary action, with consideration given to appropriate safeguards for protection of the public.

WHEREAS, Respondent acknowledges that the Board may file a Statement of Charges alleging that he has violated certain provisions of W. Va. Code §§ 30-10-1 *et seq.* and W. Va. Code R. §§ 26-1-1 *et seq.*, and proceed to a hearing and seek disciplinary action in this matter.

WHEREAS, Respondent hereby waives the filing of a formal Statement of Charges and the parties mutually desire to settle this matter without further prosecution and a formal hearing.

WHEREAS, the Board agrees and acknowledges that this agreement is a compromise of claims disputed by Respondent.

THEREFORE, it is hereby STIPULATED and AGREED between the undersigned parties that this matter be settled and resolved, the parties having reached an understanding concerning the proper disposition of the matter in controversy, and the Board, approving such an agreement, does hereby FIND and ORDER as follows:

FINDINGS OF FACT

1. Respondent is a licensee of the Board, holding License No. 7925, and at all times relevant, practiced veterinary medicine at Town and Country Animal Hospital (“Hospital”) in Wheeling, West Virginia.

2. On or about March 16, 2020, the Board received a written complaint and supporting documentation from Laurie Wardle (“Ms. Wardle”) regarding the veterinary care that her dog “Neci” received from Respondent at the Hospital.

3. Ms. Wardle’s complaint states that Neci, now deceased, had Type B Lymphoma and was receiving chemotherapy at the Hospital. Ms. Wardle alleges that she chose the drug Tanovea for her dog, which is to be administered intravenously once every three weeks. Ms. Wardle continues that Neci was presented to the Hospital for five rounds of treatment with Tanovea on the following dates: Nov. 4, 2019; Nov. 25, 2019; Dec. 16, 2019; Jan. 6, 2020; and Jan. 27, 2020. Neci was again presented to the Hospital on Feb. 13, 2020, “as she was very ill,” and was ultimately euthanized on Feb. 15, 2020 by another veterinarian. Ms. Wardle claims that the paperwork given to her by the Hospital does not include “all Lot #’s and expiration dates” for the Tanovea that was administered and that she was unable to obtain such information from the Hospital.

4. By letter to Respondent dated March 17, 2020, the Board transmitted a copy of Ms. Wardle’s complaint and requested that Respondent file a written response thereto within 30 days.

5. The Board received Respondent's written response on or about April 15, 2020, which included certain of Neci's medical records and other supporting documentation. In his response, Respondent denied Ms. Wardle's allegation that Neci was not given all five doses of Tanovea and referred to enclosed paperwork indicating that it was administered. Respondent continued, "The fact of the matter is that Ms. Wardle chose not to complete the CHOP protocol because of the adverse reactions (low WBC's, diarrhea) that Neci experienced. Neci received all five (5) doses of Tanovea on schedule and as indicated." Respondent also informed the Board that Ms. Wardle had threatened bodily injury to one of his staff members, that she repeatedly harassed the staff, and that a sheriff's deputy had to be present when Ms. Wardle picked up her dog and medical records from the Hospital.

6. The Board's Complaint Committee reviewed Ms. Wardle's complaint, Respondent's response thereto, and the medical records and other documents submitted therewith, and found probable cause to believe that Respondent failed to maintain complete patient medical records, including lack of documentation of a thorough physical examination for each of Neci's visits, in violation of W. Va. Code § 30-10-19(g)(3) and W. Va. Code R. §§ 26-1-8.1.e, 26-4-3.10, 26-4-5.1.b, 26-4-5.1.c, and 26-4-5.2.a.

7. Upon recommendation of the Complaint Committee, and after reviewing the aforementioned complaint, response, and accompanying documents, the Board, by majority vote at its meeting on April 27, 2020, determined there was sufficient evidence to warrant further proceedings and that further action should be taken against Respondent.

CONCLUSIONS OF LAW

1. Respondent is a licensee of the Board, holding License No. 7925, and is therefore subject to the license requirements and disciplinary rules of the Board.

2. The Board is a state entity created and governed by W. Va. Code §§ 30-10-1 *et seq.*, and is empowered to regulate the practice of veterinary medicine in the State of West Virginia.

3. In order to carry out its regulatory duties, the Board may suspend, revoke, or otherwise discipline an individual's license to practice veterinary medicine under the authority granted to it by W. Va. Code §§ 30-10-5 and 30-10-19 and W. Va. Code R. §§ 26-1-9 and 26-2-1 to 26-2-6.

4. Respondent does not contest that the Board has probable cause to charge him with one or more violations of the Board's governing statutes and rules based upon its investigation and findings in this matter.

5. The conduct described in the above *Findings of Fact* would, if proven, constitute violations of W. Va. Code § 30-10-19 and W. Va. Code R. §§ 26-1-8, 26-4-3, and 26-4-5. Such conduct is therefore grounds for disciplinary action.

CONSENT OF LICENSEE

I, James Radcliffe, by signing this *Consent Agreement and Order*, acknowledge the following:

1. After having had the opportunity to consult with an attorney of my choice, I sign this Consent Agreement and Order voluntarily, freely, without compulsion or duress, and understand that my signature has legal consequences.

2. No person or entity has made any promise or given any inducement whatsoever to encourage me to make this settlement other than as set forth in this document.

3. I am aware that I may pursue this matter through appropriate administrative and/or court proceedings. I am aware of my legal rights regarding this matter, but I have chosen to waive those rights intelligently, knowingly, and voluntarily.

4. I waive any defenses including, but not limited to, laches, statute of limitations, and estoppel, that I may have otherwise claimed as a condition of this agreement.

5. I acknowledge that the execution of this document constitutes disciplinary action by the Board and is therefore considered to be public information.

The Respondent, James Radcliffe, by affixing his signature hereto, agrees to the following Order.

ORDER

Based on the foregoing, the Board does hereby ORDER and DECREE as follows:

1. Within 90 days from the date of entry of this Order, Respondent shall complete three hours of Board-approved continuing education on the subject of medical recordkeeping and then submit to the Board a certificate of completion or other documentary proof of successful completion. These three credit hours of continuing education will not count toward the continuing education requirement for license renewal.

2. Within 90 days of completing the continuing education requirements set forth in the immediately preceding paragraph, Respondent shall submit to the Board for its review a total of five patient medical records completed and maintained by him in the course of his practice.

3. Within 90 days from the date of entry of this Order, Respondent shall reimburse the Board the costs of this proceeding, including but not limited to, the administrative and legal expenses incurred by the Board in the investigation and disposition of this case.

4. Any failure to comply with all provisions in this *Consent Agreement and Order* may result in additional disciplinary action, up to and including the suspension or revocation of Respondent's license to practice veterinary medicine in the State of West Virginia.

5. This document is a public record as defined in W. Va. Code § 29B-1-2. The Board is bound by law and by this Agreement to report the results of all disciplinary actions, including this matter, for posting in the AAVSB Veterinary Practitioners Disciplinary Database and for posting on the Board's website.

6. This *Consent Agreement and Order* constitutes the entire agreement between the parties.

In recognition of this *Consent Agreement and Order*, we hereby affix our signatures.

WEST VIRGINIA BOARD OF VETERINARY MEDICINE

By: John R. Wilson
Dr. John R. Wilson, Board Chairman

Entered: 6-13-2020
Date

REVIEWED AND AGREED TO BY:

James E. Radcliffe DVM
James Radcliffe, DVM
Respondent

June 2 2020
Date

This day personally appeared before me, James Radcliffe, whose name is signed to the foregoing document and who is known to me, having acknowledged before me that the statements in the foregoing document are complete, true and correct, to the best of his knowledge, information, and belief, and executed the document voluntarily on the date shown above.

Given under my hand and seal on this the 2nd day of June, 2020.

My Commission expires: March 10, 2023

Michelle E. Ilovar
Notary Public

