

BEFORE THE WEST VIRGINIA BOARD OF VETERINARY MEDICINE

**WEST VIRGINIA BOARD OF
VETERINARY MEDICINE,**

COMPLAINANT,

V.

CASE NO. 0521B

**CYNTHIA LINNEN, DVM,
VETERINARIAN LICENSE No. 8808,**

RESPONDENT.

CONSENT AGREEMENT AND ORDER

NOW COME the West Virginia Board of Veterinary Medicine (“Board”) and Cynthia Linner, 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 she 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. 8808, and at all times relevant, held an active license with the Board and practiced veterinary medicine in the State of West Virginia.

2. On or about May 7, 2021, the Board received a written complaint from Mike and Karen Hall (“the Halls”) regarding the veterinary care that their dog “Moses” received from Respondent.

3. The Halls report in their complaint that in early March, 2021, they noticed that Moses was dragging his back right leg, turning his paw over when he walked, and scraping his toenails on the floor. The Halls state that Moses also did not eat as he would typically. Accordingly, they made an appointment with Respondent, their veterinarian for thirty years, at the Audubon Animal Clinic for March 26, 2021.

4. On Friday, March 26, 2021, the Halls brought Moses to the Audubon Animal Clinic. Due to Covid, they were not permitted to enter the facility with Moses during his examination, so they met with Respondent in the parking lot after it was completed. Respondent informed the Halls that Moses had no reflexes in his back right leg, but that she could not detect a problem with the leg or hips at that time, although Respondent opined that it was likely a neurological problem. Respondent added that Moses was not eating due to pain in his leg and/or hip, and that he also had a slight urinary tract infection.

5. Therefore, Respondent prescribed Moses Gabapentin 100 mg. with instructions to give him one (1) tablet every twelve (12) hours to reduce and inflammation to his spinal cord, and to increase the dosage to two (2) tables twice a day if tolerated. The Halls report that Moses tolerated the medication without any problems. Respondent also prescribed Moses Meloxicam 7.5 mg. with instructions to give him one (1) tablet that evening and then ½ tablet twice a day to reduce inflammation in his spine and joints. Respondent also prescribed Moses an antibiotic, but the Halls report they could not recall the name or dosage. Respondent instructed the Halls to return with Moses in ten (10) days to perform x-rays on his hips.

6. The Halls report that over the next several days, Moses played and ran with a great deal of energy, although he still was not eating as was typical. On Monday morning, April 5, 2021, Mrs. Hall put Moses in his crate for two hours so she could take the Halls' granddaughter to the park. When they returned, Moses was having a difficult time breathing. Mrs. Hall took him to the yard to relieve himself, and he could barely walk. Mrs. Hall reports that Moses collapsed, so they brought Moses in to the Audubon Animal Clinic as an emergency around 1:15-1:30 p.m. The Halls report that Moses walked into the building, but that Respondent informed them that he almost passed out while having his bloodwork taken.

7. Respondent informed them that the bloodwork "looked fine," but if she could not determine what was wrong with Moses quickly, the Halls may have to take him to Pittsburgh for further medical care. Respondent kept Moses overnight for observation at the Audubon Animal Clinic.

8. On Tuesday, April 6, 2021 at approximately 9:30 a.m., the Halls called to check on Moses. Because Respondent was not yet in the clinic, they spoke with Dr. Tim Knotts, who informed them that Moses "had taken a turn for the worse, [] was septic and running a fever of

104.” The Halls gave their permission for the Audubon Animal Clinic to perform surgery on Moses to see if there was a blockage or a twisted bowel, and went to visit with Moses before his surgery.

9. The Halls report that Dr. Knotts contacted them shortly after commencing the surgery and informed them that “all of [Moses’s] organs were dead.” The Halls were informed that Moses had a “perforated ulcer,” that he needed to be euthanized, and the clinic would like to have an autopsy performed on some of his organs and his tissue. The Halls said after eight (8) days, they contacted Dr. Knotts to inquire about the results of the autopsy, but that Dr. Knotts informed them that he did not know the cause of Moses’s death and that the autopsy did not make sense to him.

10. The Halls contacted Moses’s breeder, who contacted their veterinarian, Dr. Lynn Springer. The Halls granted Dr. Springer permission to request Moses’s autopsy report and medical records from Respondent. Dr. Springer opined that Moses had overdosed on Meloxicam and immediately informed Respondent. According to the Halls, Respondent reviewed her notes, acknowledged her mistake, and demonstrated remorse to Dr. Springer.

11. On Thursday, April 8, 2021, Respondent called the Halls and informed them that she had made a mistake with the dosage of Meloxicam, but added that she felt strongly that the Meloxicam did not cause Moses’s death. The Halls state that the next time they spoke with Respondent was on April 22, 2021, after they contacted her, but that she did not have any additional information for them about the cause of Moses’s death.

12. The Halls state that Dr. Springer opined that the excessive Meloxicam caused Moses’s death, and that Dr. Springer’s opinion was supported by forty (40) veterinarians from across the country in a blind study Dr. Springer had conducted.

13. On or about June 10, 2021, Respondent submitted a response to the Halls' complaint, along with articles, documents, and photos in support thereof. Respondent stated that when she examined Moses on March 26, 2021, she suspected a pinched nerve or infarction was causing a neurologic deficit. Respondent acknowledged that she prescribed Gabapentin and Meloxicam, but noted that she mistakenly typed the prescription for the latter as ½ tablet twice a day, whereas it should have read ½ tablet once a day.

14. Respondent acknowledged that during Moses's surgery, Dr. Knotts determined, and Respondent concurred, that the damage to Moses's organs was too great to allow him good quality of life and that it was proper to obtain permission to euthanize Moses. Respondent explained that Dr. Knotts submitted a sample of the organs to IDEXX to attempt to determine what had happened. Respondent stated that she had spoken with Dr. Springer and acknowledged her mistake in prescribing the Meloxicam, and informed Dr. Springer that she would contact the Halls.

15. Respondent maintained that called the Halls that evening and explained that the dose of Meloxicam had been mistakenly doubled and apologized for her error. Respondent informed Mrs. Hall that she did not believe that the excess Meloxicam had killed Moses, but that the necropsy should provide the cause of his death. Respondent added that when the necropsy results were returned, Dr. Knotts called the Halls to explain that it did not provide the cause of death. Respondent stated that she wanted to call to speak with Mrs. Hall further, but waited to give her a little time, as she knew that Mrs. Hall was devastated by Moses's death.

16. Respondent stated that when she received the complaint, she was surprised to read that so many veterinarians determined that Meloxicam caused Moses's death. Respondent explained that she had conducted additional research into the drug and had not seen anything warning that Meloxicam caused ulcers or that the tablet form of the drug was dangerous.

Respondent added that she contacted the pathologist, Dr. Steve Smith, to seek his opinion as he had seen Moses's tissue samples, and that Dr. Smith opined that Moses had an ulcer that appeared to have perforated, and amended his report to reflect the same. Respondent stated "[i]n light of the results of the amended pathology report, I believe that my mistake in prescribing an overdose of [M]eloxicam contributed to, and may have caused the death of Moses, especially as he was already suffering with mild gastritis, causing the reduction in appetite he presented for on 3/26/2021." Respondent expressed her sincere remorse, noted that the Halls would be reimbursed for the hospitalization and surgery expenses, and stated that she was in the process of contacting the owners of other dogs on the 7.5 mg. Meloxicam tablets to make sure they were administering the medication properly given what Respondent had learned about the drug.

17. The Board's Complaint Committee reviewed the Halls' complaint, Respondent's response thereto, and the medical records and other documents submitted therewith and found probable cause to believe that Respondent prescribed an inappropriate dose of Meloxicam that possibly contributed to the death of Moses, in violation of W. Va. Code § 30-10-19(g)(3) and W. Va. Code R. §§ 26-1-8.1.5 and 26-4-5.3.b.

18. 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 July 30, 2021, 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. 8808 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. §§ 26-1-8 and 26-2-1 to 26-2-6.

4. Respondent does not contest that the Board has probable cause to charge her 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 and 26-4-5. Such conduct is therefore grounds for disciplinary action.

CONSENT OF LICENSEE

I, Cynthia Linner, 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, Cynthia Linner, by affixing her signature hereto, agrees to the following Order:

ORDER

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

1. Respondent is hereby REPRIMANDED for her actions in this matter.
2. In light of the following steps that Respondent undertook, Respondent will not be required to undertake any corrective action except as set forth in paragraph 3 of the Order: a. Respondent conducted additional research into Meloxicam and contacted Dr. Smith to seek his opinion; b. Upon Respondent's inquiry and Dr. Smith's review of the pathology report, he amended the pathology report and Respondent acknowledged that her mistake in prescribing an overdose of [M]eloxicam contributed to, and may have caused the death of Moses; c. Respondent reimbursed the Halls for the hospitalization and surgery expenses they incurred; and 4. Respondent contacted the owners of other dogs on the 7.5 mg. Meloxicam tablets to make sure they were administering the medication properly given what Respondent had learned about the drug.
3. Within three (3) months from the date of the 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 the 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.

[REST OF PAGE INTENTIONALLY LEFT BLANK]

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: 11/11/2021
Date

REVIEWED AND AGREED TO BY:

Cynthia Linner
Cynthia Linner, DVM
Respondent

10/21/21
Date

This day personally appeared before me, Cynthia Linner, 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 21st day of October, 2021.

My Commission expires: October 29, 2025

Cathy A. Bailey
Notary Public

