

BEFORE THE WEST VIRGINIA BOARD OF VETERINARY MEDICINE

**WEST VIRGINIA BOARD OF
VETERINARY MEDICINE,**

COMPLAINANT,

v.

CASE NO. 0622A

**JULIA CARSON-THOMAS,
VETERINARIAN LICENSE NO. 01-2010,**

RESPONDENT.

CONSENT AGREEMENT AND ORDER

NOW COME the West Virginia Board of Veterinary Medicine (“Board”) and Julia Carson-Thomas, 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 these matters.

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. 01-2010, and at all times relevant, practiced veterinary medicine at the Fairmont Veterinary Hospital (“FVH”) in Fairmont, West Virginia.

2. On or about June 3, 2022, the Board received a written complaint and supporting documentation from Douglas Smith (“Mr. Smith”) regarding the veterinary care that his dog “Audrey” received from Respondent at FVH.

3. Mr. Smith’s complaint states that on May 19, 2022, he brought Audrey to FVH for a physical examination and an ultrasound due to Audrey’s distended abdomen. Mr. Smith asserts that instead of performing the ultrasound, Respondent made the decision to operate and remove the tumor that was discovered. Mr. Smith maintains that Respondent placed a three minute telephone call to his family to obtain consent and to secure payment to perform the surgery, and that, during the call, Respondent failed to discuss adequately the risks versus the benefits of the surgery. Mr. Smith states that if the surgery had not been performed, Audrey could have had the same quality of life to which she was accustomed with the tumor, and that Respondent did not indicate that the situation was an emergency that required surgery.

4. Mr. Smith’s complaint further states that during the surgery, Respondent discovered that the tumor was very large and that removing it was impossible due to its connection to Audrey’s pancreas and vena cava. Mr. Smith asserts that Respondent communicated this

information to the family during a brief call in which Respondent recommended euthanizing Audrey, which ultimately occurred.

5. Mr. Smith maintains that Respondent “intentionally deprived myself and my family of the right and responsibility that we were entitled to in making an informed decision and providing informed consent as to what we believed was in the best interests for Audrey on May 19, 2022.” Mr. Smith asserted that Respondent: 1. Abused her position as a veterinarian in order to exploit the family in order to obtain consent to perform the surgery for profit; 2. Negligently refused to take an ultrasound prior to performing an invasive surgery; 3. Committed a misdemeanor by removing the tumor after Audrey’s death without consent or documentation; 4. Manipulated patient examination notes to absolve herself of misconduct; and 5. Deceived the public by using the “alias” Dr. Carson, as opposed to Dr. Thomas.

6. By letter to Respondent dated June 6, 2022, the Board transmitted a copy of Mr. Smith’s complaint and requested that Respondent file a written response thereto within 30 days.

7. The Board received Respondent’s written response on July 5, 2022, which included Audrey’s medical records. Respondent asserted that she examined Audrey as a referral for a possible abdominal ultrasound and radiographs. Respondent maintains that a lateral abdominal radiograph was performed and that Respondent discussed with “Audrey’s owner” Respondent’s findings that a very large mass was present that was causing the abdominal distension. Respondent asserts that she discussed that the tumor was likely benign and that removing the tumor would likely “resolve the problem.” Respondent states that she discussed that the surgery was major, but that Audrey was stable that day, and the family opted to have the surgery performed that day.

8. Respondent states that during surgery, it was discovered that the tumor was very large and complicated. Respondent maintains that due to the tumor’s size and the amount of

bleeding that had occurred, Respondent determined that it would be nearly impossible to return the tumor to Audrey's abdomen, close her body, and attempt to wake her from surgery without great distress and pain inflicted on Audrey. Therefore, Respondent maintains that she recommended to Audrey's family that Audrey be euthanized while under anesthesia. Respondent noted that Mrs. Smith agreed to euthanize Audrey after being shown the size of the tumor while Audrey was still under anesthesia.

9. Respondent stressed that Audrey's case and her ultimate loss of life was very distressing to Respondent, and that her goal that day was to improve Audrey's quality of life by removing the large tumor in her abdomen. Respondent further explained that she has gone by Dr. Carson, her maiden name, for many years, and although her name legally changed after marriage to Dr. Carson-Thomas, she continues to introduce herself to clients as she has been known in the community for many years, "Dr. Carson." Respondent denied that she was trying to hide anything.

10. Thereafter, both Mr. Smith and Respondent, via counsel, sent additional documentation to the Board for its review and consideration.

11. The Board's Complaint Committee reviewed Mr. Smith's complaint. Respondent's response thereto, and the medical records submitted therewith, as well as all additional documentation submitted by the parties, and found probable cause to believe that Respondent failed to maintain an adequate anesthesia log for Audrey's care and monitoring during surgery, in violation of W. Va. Code § 30-10-19(g)(3) and W. Va. Code R. §§ 26-1-8.1.5, 26-4-5.2.a., and 26-4-5.8.c.

12. 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 January 5, 2023, 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. 01-2010, 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, 26-4-5.2.a, and 26-4-5.8.c. Such conduct is therefore grounds for disciplinary action.

CONSENT OF LICENSEE

I, Julia Carson-Thomas, 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, Julia Carson-Thomas, 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. Within three (3) months from the date of entry of this Order, Respondent shall complete three (3) hours of Board-approved continuing education on the subject of medical record keeping. These continuing education hours do not count toward the required eighteen (18) hours of continuing education.

3. Within three (3) months after taking the above-mentioned medical record keeping continuing education, Respondent shall submit to the Board for its review five (5) patient medical records for cases in which surgery was performed, completed and maintained by her.

4. 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.

5. 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.

6. 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.

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

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

WEST VIRGINIA BOARD OF VETERINARY MEDICINE

By: Keith B Berkeley DVM
Dr. Keith Berkeley, Board Chairman

Entered: 23 March 2023
Date

REVIEWED AND AGREED TO BY:

Julia Carson-Thomas
Julia Carson-Thomas, DVM
Respondent

3/14/2023
Date

This day personally appeared before me, Julia Carson-Thomas, 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 her knowledge, information, and belief, and executed the document voluntarily on the date shown above.

Given under my hand and seal on this the 14 day of March, 2023.

My Commission expires: April 10 - 23

Rachelle L. Jacques
Notary Public

