

**BEFORE THE WEST VIRGINIA BOARD OF VETERINARY MEDICINE**

**WEST VIRGINIA BOARD OF  
VETERINARY MEDICINE,**

**COMPLAINANT,**

**v.**

**CASE No. BVMCE0522E**

**THOMAS OVERBAY, DVM,  
VETERINARIAN LICENSE NO. 8407,**

**RESPONDENT.**

**CONSENT AGREEMENT AND ORDER**

After conducting an audit of the continuing education hours reported by Respondent, Thomas Overbay (“Respondent”), for the calendar year 2021, the West Virginia Board of Veterinary Medicine (“Board”) determined there was probable cause to believe that Respondent had violated W. Va. Code § 30-10-19(g)(3) and W. Va. Code R. § 26-1-7.5.

Now, in lieu of a hearing, the parties have reached an agreement for the resolution of this matter and hereby agree to entry of this Order based upon the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

The Board hereby adopts the following factual findings:

1. Respondent is a licensee of the Board, holding License No. 8407, and therefore is 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. Licensees of the Board are required to complete at least eighteen 50-minute hours of continuing education ("CE") in the field of veterinary medicine during each calendar year. W. Va. Code R. § 26-1-7.5. Fourteen of these hours must be related to the practice of veterinary medicine, to include scientific, laboratory, regulatory, and medical recordkeeping, and no more than four hours may be related to practice management. *Id.*

5. Licensees of the Board are further required to maintain original documents verifying the date and subject matter of completed CE, the number of CE hours obtained, and certification of attendance from an approved CE provider. W. Va. Code R. § 26-1-7.5.b; *see also* W. Va. Code R. § 26-1-7.11. A list of approved CE providers is contained within the Board's legislative rules. *See* W. Va. Code R. § 26-1-7.5.2.a.

6. If a licensee fails to comply with CE requirements, the Board may initiate disciplinary proceedings against the licensee and audit the licensee again the following year. W. Va. Code R. § 26-1-7.5.2.a.

7. The Board informed Respondent that he had been selected at random for an audit of CE hours completed during the calendar year 2021. Respondent was instructed to provide the Board with certificates of attendance and a completed CE tracking form within 20 days.

8. In response, Respondent was unable to provide documentation showing that, in the calendar year 2021, he had completed any hours of CE.

9. The number of CE hours reported by Respondent was insufficient to meet the 18 hours of continuing education required for the calendar year 2021.

### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction to take disciplinary action against Respondent.

2. Based upon the facts and matters set forth in the above Findings of Fact, the Board is authorized to suspend, revoke, or otherwise discipline Respondent's license pursuant to W. Va. Code §§ 30-10-5 and 30-10-19.

3. Respondent was notified of the allegations against him pursuant to the rules of the Board and the laws of this State.

4. Respondent's failure to obtain the required 18 hours of continuing education within the calendar year 2021 violates W. Va. Code § 30-10-19(g)(3) and W. Va. Code R. § 26-1-7.5. As such, Respondent is subject to disciplinary action.

### **CONSENT OF LICENSEE**

I, Thomas Overbay, by affixing my signature hereto, 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 admit that my actions violated the statutes and rules of the West Virginia Board of Veterinary Medicine.

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

The Respondent, Thomas Overbay, by affixing his signature hereto, agrees to the following:

### **ORDER**

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

1. Respondent is hereby REPRIMANDED for his actions in this matter.
2. Respondent shall be assessed a monetary fine of One Hundred Dollars (\$100.00), to be made payable to the West Virginia Board of Veterinary Medicine not later than ninety (90) days from the date of entry of this Order.
3. Within ninety (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. Within six (6) months from the date of entry of this Order, Respondent shall complete the number and/or type of CE hours for which he is deficient for the calendar year 2021 and submit proof of the same to the Board. These hours may NOT be counted as part of Respondent's CE requirement for the calendar year 2022.
5. Respondent shall submit to an audit of his CE hours completed during the calendar year 2022.

6. 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.

7. This document is a public record as defined in West Virginia 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.

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

Entered: 8-16-2022  
Date

REVIEWED AND AGREED TO BY:

Thomas Overbay  
Dr. Thomas Overbay  
Respondent

1 August 2022  
Date

This day personally appeared before me, Dr. Thomas Overbay, 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 15<sup>th</sup> day of August, 2022.

My Commission expires: 5-4-24

Anna C. Sprague  
Notary Public

