

**BEFORE THE WEST VIRGINIA BOARD OF VETERINARY MEDICINE**  
**IN THE MATTER OF: Dr. Jessica Jividen D.V.M. Case No. 0109B**

**CONSENT AGREEMENT AND ORDER**

After due investigation of a verified written complaint, the West Virginia Board of Veterinary Medicine (hereinafter Board) has determined there was probable cause to determine that Jessica Jividen D.V.M., (hereinafter Respondent), has exhibited negligence and unprofessional conduct, in violation of W. Va. Code §30-10-1 *et seq.* and the Rules of the Board, 26 C.S.R. §1 *et seq.* The Respondent was provided written notice of the allegations against her pursuant to the rules of the Board and the laws of this State.

Now, in lieu of a hearing, the parties have reached an agreement for the resolution of Case #0109B, and the parties agree to the entry of the following Order in disposition of this case:

**FINDINGS OF FACT**

The Board adopts the following findings in this matter:

1. The Board is a state entity created by W. Va. Code §30-10-1, *et seq.*, and is empowered to regulate the practice of veterinary medicine, pursuant to W. Va. Code §30-10-1 *et seq.*
2. Dr. Jividen holds a veterinary license issued by the Board, enabling her to practice veterinary medicine in the State of West

Virginia, and is subject to the licensing requirements of said Board.

Dr. Jividen's West Virginia veterinary license number is #21-2007.

3. That in carrying out its regulatory duties, the Board is empowered to suspend, revoke or otherwise discipline an individual's license to practice veterinary medicine in this state by authority granted in W. Va. Code §§ 30-1-7 and 30-10-11.

4. That Dr. Jessica Jividen, a veterinarian;

A) While practicing veterinary medicine at North Gateway Animal Hospital on November 14, 2008, spayed a cat which according to the owner had previously been feral.

B) The owner of the cat alleged in her complaint that she received a call around noon on November 14, 2008 from a receptionist at North Gateway telling her that everything went well with the surgery and the cat was arousable. The client arrived at the veterinary facility at about 5:15 p.m. that day to release her pet. The client was taken to the exam room and the vet tech brought the cat in its carrier to the client, placing the carrier on the table. Seeing that the cat's nose and mouth were placed against the back of the carrier, the client opened the door of the carrier and found her pet cold and dead.

C) Respondent asserted in her written response that the patient was spayed and was recovered inside her carrier and recovery was uneventful. Respondent further stated that due to the feral state of the cat, the patient post-surgically could only be monitored visually

for alertness and responsiveness. Respondent stated that upon being informed that the cat was deceased, she checked the cat and determined that was indeed the case. She then informed the client that cats are prone to vascular events such as emboli following surgery as a possible cause of death, noting unknown previous medical history of the cat.

D) Respondent stated that the staff member who brought the cat to the owner was untrained in proper procedure for release of patients and failed to note that the cat was deceased when the cat in its carrier was brought to the owner.

E) There is no record of necropsy on the cat.

F) Respondent on instruction of the Board supplied a copy of the medical records on this case to the Board along with her response to the allegations.

#### **CONCLUSIONS OF LAW**

1. That the Board has jurisdiction to take disciplinary action against Respondent.

2. That the Board has the power to place on probation, suspend, limit, restrict or revoke any license issued by the Board, or impose civil penalties pursuant to W. Va. Code § 30-10-11 and 26 C.S.R. § 1-9 *et. seq.*.

3. That the Board has defined unprofessional conduct by adopting the standards of practice of 26 C.S.R. § 4-1 *et seq.* and violations of these standards of practice constitute grounds for disciplinary action by the Board pursuant to W. Va. Code § 30-10-11 (n).

4. That the Board has defined under General Professional Ethics in 26 C.S.R. § 4-3.10 that a veterinarian shall exercise the same degree of humane care, skill and diligence in treating patients as is ordinarily used in the same or similar circumstances by reasonable members of the veterinary medical profession.

### **CONSENT**

Dr. Jessica Jividen, by affixing her signature hereon, agrees to the following:

1. She is aware of her right to pursue this matter through the appropriate administrative and/or court channels, but intelligently, knowingly and voluntarily waives the right to do so.

2. She has had the opportunity and right to consult with counsel and is exercising this Consent Agreement voluntarily, freely, without compulsion or duress and mindful that it has legal consequences.

3. That no person or entity has made any promise or given any inducement whatsoever to encourage her to sign this settlement other than as set forth herein.

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

5. Respondent admits that her actions in this case were unprofessional as well as a deviation from the professional standards of humane treatment and the medical records were insufficient constituting violations of the Rules of the Board.

6. The Respondent, Dr. Jessica Jividen, by affixing her signature herein, agrees to the following:

**ORDER**

On the basis of the foregoing, the Board does hereby ORDER and DECREE that:

1. Respondent's license is hereby REPRIMANDED.
2. Dr. Jessica Jividen shall have her veterinary license placed under one year's probation, effective on the entered date of this Consent Agreement, during which the medical records of North Gateway Animal Hospital shall be subject to unannounced inspections by the Board. Any such inspections shall be charged to and paid by Dr. Jividen within thirty (30) days of inspection.

3. Dr. Jividen shall complete six (6) hours of classroom continuing education on anesthesia and post-surgical care no later than December 31, 2009. Prior to enrolling in such continuing education course, she must apply to the Board for determination of the course meeting the Board's requirements. Such continuing education shall be in addition to the eighteen (18) hours of continuing education required for annual license renewal. Dr. Jividen shall submit sworn confirmation of her attendance in such course to the Board following completion. Respondent shall also provide written evidence to the Board of her protocol for monitoring anesthesia and post-operative recovery.

4. This Consent Agreement is non-negotiable. Should Respondent determine that she will not accept this settlement offer, the Board shall proceed to other legal remedies authorized by law.

5. Any violations of the conditions of this Consent Agreement shall constitute immediate cause for a hearing to determine if the license to practice veterinary medicine by Dr. Jessica Jividen in West Virginia shall be further disciplined, suspended or revoked.

6. The Board shall report the results of all disciplinary actions, including the instant matter to the AAVSB Veterinary Practitioners Disciplinary Database

7. This document is a public record as defined in W. Va. Code §29B-1-2 (4).

8. Dr. Jessica Jividen shall sign and return this document to the Board without modification, to be received in the office of the Board

no later than June 11, 2009, or the Board will pursue further action as is deemed appropriate.

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

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

WEST VIRGINIA BOARD  
OF VETERINARY MEDICINE

By: Ronald L. Smith  
DR. RONALD L. SMITH  
PRESIDENT

Entered: 6/11/09  
DATE

Reviewed and agreed to by:

Dr. Jessica Jividen  
Dr. Jessica Jividen, Respondent

6-10-09  
DATE

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Counsel for the Respondent

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DATE