

BEFORE THE WEST VIRGINIA BOARD OF VETERINARY MEDICINE

IN THE MATTER OF: Robert Stewart D.V.M.

Case No. BVM0611A

CONSENT AGREEMENT AND ORDER

After due investigation of two verified written complaints (Complaint Cases 0411A and 0511A) and the Board's investigation, the West Virginia Board of Veterinary Medicine (hereinafter Board) has determined there was probable cause to determine that Robert Stewart D.V.M., (hereinafter Respondent), has exhibited unprofessional conduct and professional negligence in violation of W. Va. Code §30-10-1 *et seq.* and the Rules of the Board, 26 C.S.R. §1 *et seq.* in these cases. The Respondent was provided written notice of the allegations against him on both written complaints 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 the two above referenced cases and the Board's investigation, 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. Respondent holds a veterinary license issued by the Board, enabling him to practice veterinary medicine in the State of West Virginia, and is subject to the licensing requirements of said Board. Respondent's West Virginia veterinary license number is #532.
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 30-10-19.

4. That Respondent, a licensed veterinarian is guilty of unprofessional conduct and professional negligence in these cases.

5. That Respondent violated the requirements of W. Va. Code §30-10-19.g.3 as well as CSR §26-4-4.1, 26-4-4.5.d and 26-4-4.5.e in the above referenced complaint cases.

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 § 30-10-19 and 26 C.S.R. § 1-9 *et seq.*

3. That the Board has defined unprofessional conduct by adopting the standards of practice of 26CSR4-1 *et seq.* and that violations of these standards of practice constitute grounds for disciplinary action by the Board pursuant to W. Va. Code § 30-10-19.

CONSENT

Dr. Robert Stewart, by affixing his signature herein, agrees to the following:

1. He is aware of his 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. He 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 him to sign this settlement other than as set forth herein.

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

5. Respondent admits that his actions were unprofessional as well as a deviation from the professional standards of conduct.

6. The Respondent, Dr. Robert Stewart, by affixing his 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. Robert Stewart's authority to practice veterinary medicine shall include treatments and diagnostics within his veterinary practice.
3. His authorized surgical procedures are limited to routine spays and neuters as well as non-invasive procedures such as small tumors, wart removals, etc.
4. No procedures may be performed or medical cases undertaken which require overnight hospitalization at the veterinary facility.
5. In the event there are any cases treated by Dr. Stewart which after completion are determined to require overnight hospitalization or more intensive care, Dr. Stewart must have all such patients transferred to either an emergency or full service veterinary facility which agrees to accept such cases. Such medical transfer of the patient shall be prior to the daily closing of Dr. Stewart's veterinary facility and shall be with the full consent of the client. All clients shall be informed prior to surgery that any cases requiring transfer following surgery must be transferred to another veterinary facility prior to surgery being performed.
6. Dr. Stewart's veterinary facility is subject to unannounced facility inspections, as are determined at the Board's discretion within the 6 months following the signing of this Consent Agreement. Any and all such facility inspections shall be charged to and paid by Dr. Stewart. Dr.

Stewart's practice and records shall also be reviewed at the time of such unannounced inspections to assure his full compliance with the conditions of this Consent Agreement.

7. Dr. Stewart shall pay \$900.00 (Nine Hundred Dollars) to the Board within 90 days of the signing of this Consent Agreement as administrative costs in this case.

8. Dr. Stewart shall be on the premises and provide a diagnosis and course of treatment for all cases at his veterinary facility, and such diagnosis and treatment shall be solely performed by or on the orders of Dr. Stewart, and within the legal authority of the service provider.

9. This Consent Agreement is non-negotiable. Should Respondent determine that he will not accept this settlement offer, the Board shall proceed to a hearing to determine other legal remedies authorized by law, which may result in further discipline including further suspension or revocation of licensure of Dr. Robert Stewart.

10. Any violation 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. Robert Stewart in West Virginia shall be further disciplined, suspended or revoked.

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

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

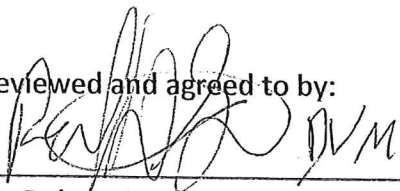
13. Dr. Robert Stewart shall sign and return this document to the Board without modification to be received in the office of the Board no later than August 10, 2011, or the Board will pursue further action as it deems appropriate.

14. Dr. Stewart's license to practice veterinary medicine in West Virginia shall remain suspended until such time as this Consent Agreement is signed by him and the Board representative, or the Board renders a decision after a hearing on this case.

15. Upon the signing of this Consent Agreement by all parties concerned, the emergency suspension of Dr. Stewart's authority to practice veterinary medicine in West Virginia shall be terminated.

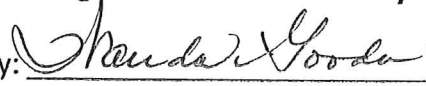
16. This Consent Agreement and Order constitutes the entire agreement between the parties.

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

Reviewed and agreed to by:


Dr. Robert Stewart; Respondent

West Virginia Board of Veterinary Medicine

By: 

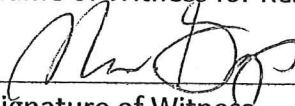
Wanda Goodwin: Executive Director

7-7-11 Robert D. Stewart
Date DVM



Name of Witness for Respondent

Entered: 7/8/11
Date



Signature of Witness

7-7-11
Date