

BEFORE THE WEST VIRGINIA BOARD OF VETERINARY MEDICINE

**WEST VIRGINIA BOARD OF
VETERINARY MEDICINE,**

COMPLAINANT,

v.

CASE NO. 0618B

**MARK CURTIS, III, DVM,
VETERINARIAN LICENSE NO. 8517,**

RESPONDENT.

CONSENT AGREEMENT AND ORDER

After due investigation of allegations received in a written complaint, the West Virginia Board of Veterinary Medicine ("Board") determined there was probable cause to believe that Respondent, Mark Curtis, III, DVM ("Dr. Curtis"), exhibited unprofessional conduct in the practice of veterinary medicine in violation of certain provisions of W. Va. Code §§ 30-10-1 *et seq.* and W. Va. Code R. §§ 26-1-1 *et seq.* The Board gave Dr. Curtis written notice of the allegations against him and the opportunity to request an administrative hearing under the rules of the Board and the laws of this State. Rather than proceeding to an administrative hearing, the parties have agreed to the entry of this *Consent Agreement and Order* to resolve and dispose of this matter.

FINDINGS OF FACT

The Board adopts the following factual findings:

1. Dr. Curtis is a licensee of the Board, holding License No. 8517, and therefore is subject to the license requirements of the Board. At all times relevant, Dr. Curtis practiced veterinary medicine at Academy Animal Hospital in St. Albans, West Virginia.

2. On or about June 18, 2018, the Board received a written complaint from John Mullins (“Mr. Mullins”) regarding the veterinary care that his dog “Girl” received from Dr. Curtis beginning in November 2017 and continuing until January 2018.

3. Mr. Mullins’ complaint alleges that Girl was treated by Dr. Curtis in November 2017 for a urinary tract infection. Then, in January 2018, Dr. Curtis “operated on her and shaved her rear legs and bottom he sent her home with antibiotics and spray for the affected area.” Mr. Mullins further alleges that, following the surgery, Girl did not have “control of her urine, trickling everywhere, going outside to relieve herself often with no relief.”

4. In May 2018, Girl’s symptoms had worsened to include “requesting to go outside about every 2 hours” and “peeing blood.” Because Dr. Curtis had closed his business, Mr. Mullins presented Girl to Avalon Animal Hospital for treatment of these symptoms. There, Dr. Ronald Smith examined Girl and “found a bladder mass/stone that has been growing.” Mr. Mullins alleges that the bladder mass/stone “started all our dog’s issues with her urine control, and it should have been found 5 months ago,” but Dr. Curtis failed to conduct an x-ray of Girl. Dr. Smith and others at Avalon Animal Hospital operated on Girl to remove the bladder mass/stone, which “was the size of her bladder.”

5. Mr. Mullins also alleges that, in June 2018, Girl was treated at Kanawha Valley Veterinary Emergency Hospital, and then Dr. Smith performed surgery to remove her bladder lining “because it was rotten due to the amount of time the stone was lodged in the bladder untreated by Dr. Curtis.” It was observed at this time that Girl’s “urinary tract is dilated” and “she may have kidney damage.” Mr. Mullins attached certain of Girl’s medical records to his complaint.

6. Dr. Curtis responded to Mr. Mullins' complaint by letter dated July 24, 2018, with certain of Girl's medical records enclosed. In his response, Dr. Curtis states that he first saw Girl on November 10, 2017, at which time the "caudal area was matted, urine and loose feces covered and very painful on palpitation. Clipping and cleaning the area revealed ulcerated vulva and a urine scaled pyoderma." No surgery was performed during this visit, but anti-inflammatory and antibiotic medications were administered. Dr. Curtis further states that, although a recheck was recommended in 4-5 days, he did not see Girl again until December 29, 2017, at which time "the vulva looked worst" and "the discussion of a non-healing, anorexia and not well monitored lesion may be cancerous." Upon recommendation, Girl was presented to Dr. Curtis a third time in early January 2018, at which time the "ulcerated area had hair growing over it, which was painful and needed sedation to clip the are[a] closely. Isoflurane was administered and again no surgery was performed." Dr. Curtis recommended that Girl return in one week, but she was not seen again.

7. Dr. Curtis further states in his response that the "lag period between the first and second visits was too long, and the focus was on the vulvar ulceration. Not returning in a week after the last visit and waiting for 4 or more months isn't favorable for the pet or diagnosing. . . . We did work on and start to control the vulvar ulceration. Continuing to monitor may have discovered as stone if it were there."

8. The Board's Complaint Committee reviewed Mr. Mullins' complaint, the response of Dr. Curtis, and the medical records and other documents submitted therewith, and found probable cause to believe that Dr. Curtis failed to meet the required standard of care by not providing diagnostics related to urinary tract complaints, in violation of W. Va. Code § 30-10-19(g)(3) and W. Va. Code R. §§ 26-1-8.1.e, 26-4-3.10, 26-4-5.1.a, and 26-4-5.1.b.

9. Upon recommendation of the Complaint Committee, and after reviewing the aforementioned complaint, response, and accompanying documents, the Board, by majority vote at its Board meeting on October 15, 2018, determined there was sufficient evidence to warrant further proceedings and that further action should be taken against Dr. Curtis.

10. The Board issued a *Complaint and Statement of Charges* informing Dr. Curtis that it had found the existence of probable cause at its October 15, 2018 Board meeting.

CONCLUSIONS OF LAW

1. Dr. Curtis is a licensee of the Board, holding License No. 8517, and is therefore subject to the license requirements 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. §§ 26-1-9 and 26-2-1 to 26-2-6.

4. Dr. Curtis was notified of the allegations against him pursuant to the rules of the Board and the laws of this State.

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, 26-4-3, and 26-4-5. Such conduct is therefore grounds for disciplinary action.

CONSENT OF LICENSEE

I, Mark Curtis, III, 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 admit that my actions violated the statutes and rules of the 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, Mark Curtis, III, by affixing his signature hereto, agrees to the following Order.

ORDER

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

1. Dr. Curtis is hereby REPRIMANDED for his actions in this matter.

2. Within six months from the date of entry of this order, Dr. Curtis shall complete three hours of Board-approved continuing education on the subject of urogenital medicine, with emphasis on urinary tract infections and bladder stones, and then submit to the Board a certificate of completion or other documentary proof of successful completion. These three credit hours of continuing education will NOT count toward the continuing education requirements for license renewal.

3. Within six months from the date of entry of this order, Dr. Curtis 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 this Consent Agreement and Order may result in additional disciplinary action, up to and including the suspension of Dr. Curtis' license to practice veterinary medicine in the State of West Virginia.

5. This document is a public record as defined in West Virginia Code § 29B-1-2(4). 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.

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: 12-11-2018
Date

REVIEWED AND AGREED TO BY:

Mark Curtis, III
Mark Curtis, III, DVM
Respondent

12-4-18
Date

This day personally appeared before me, Mark Curtis, III, 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 4th day of December, 2018.

My Commission expires: 4/13/2020

Patricia Habtun
Notary Public