

BEFORE THE WEST VIRGINIA BOARD OF VETERINARY MEDICINE

WEST VIRGINIA BOARD OF
VETERINARY MEDICINE,

COMPLAINANT,

v.

CASE NO. 1119B

DONALD FAIRMAN, DVM,
VETERINARIAN LICENSE NO. 9511,

RESPONDENT.

CONSENT AGREEMENT AND ORDER

The West Virginia Board of Veterinary Medicine ("Board") has conducted an investigation of allegations that certain conduct by Respondent, Donald Fairman, DVM ("Dr. Fairman"), may constitute violations of the Board's governing statutes, W. Va. Code §§ 30-10-1 *et seq.*, and the rules promulgated thereunder, W. Va. Code R. §§ 26-1-1 *et seq.* Having made a finding of probable cause to pursue disciplinary action, the Board gave Dr. Fairman 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. Fairman is a licensee of the Board, holding License No. 9511, and at all times relevant hereto, held an active license issued by the Board.

2. Dr. Fairman also holds a license with the Virginia Board of Veterinary Medicine (License No. 0301-005584).

3. On or about November 5, 2018, Dr. Fairman completed an online application form in order to renew his license with this Board.

4. As part of that online application form, Dr. Fairman was asked the following question: "Has your license in any state/jurisdiction or your authority as a veterinarian been disciplined or restricted by any authority since your last annual license renewal was submitted to this board?" If answering "yes," the form instructed Dr. Fairman to "provide details and/or upload documentation to explain each question below that you responded to with a 'yes' answer. You must upload a file with pertinent details."

5. Dr. Fairman responded to this question with a "No" answer and, therefore, did not provide any details or upload any documentation.

6. At the end of the online renewal application form, Dr. Fairman certified that "I have personally completed this renewal form, and that I have read and understand all questions and statements on this renewal form. I further declare under penalty of perjury that the foregoing submissions and answers are true and correct."

7. Dr. Fairman's online renewal application was processed and his license was renewed effective November 5, 2018.

8. Subsequently, the Board received information that Dr. Fairman had been disciplined by the Virginia Board of Veterinary Medicine in February 2018. More particularly, Dr. Fairman agreed to a "Consent Order" entered by the Virginia Board of Veterinary Medicine on February 21, 2018, wherein he admitted to a finding that, "during his employment as Veterinarian-in-Charge at Kingdom Animal Hospital, Clear Brook, Virginia, in or about 2015, he

failed to maintain all drugs in secured manner with precaution taken to prevent diversion” and “allowed unlicensed staff to access and fill prescriptions for Schedule II through V drugs” in violation of Virginia statutes and regulations. Dr. Fairman was reprimanded and assessed a monetary penalty of \$700.00 under that Order.

9. The aforesaid discipline by the Virginia Board of Veterinary Medicine occurred after Dr. Fairman renewed his license with this Board on January 23, 2018. Accordingly, the discipline should have been reported on the online renewal application form that Dr. Fairman submitted to this Board on November 5, 2018.

10. By letter dated January 15, 2019, Dr. Fairman informed the Board that “[m]y office manager (Melanie Lloyd) filled out the West Virginia license renewal form for me online as she paid for the relicensing fee and mistakenly checked off the no box in reference to the question about disciplinary action by other authorities since the last renewal was submitted. In checking the form I did not catch the error. I did not intentionally attempt to hide the proceedings against me in the state of Virginia.”

11. At its meeting on April 11, 2019, the Board reviewed the documentation described herein and found probable cause to believe that Dr. Fairman was earlier disciplined by the Virginia Board of Veterinary Medicine, but failed to report that discipline, and did not disclose that discipline when renewing his license on November 5, 2018 despite being expressly asked to do so, all in violation of W. Va. Code §§ 30-10-19(g)(1), (5) and W. Va. Code R. §§ 26-1-7.14, 26-1-8.1.a, and 26-1-8.1.o.

12. The Board, by majority vote at its meeting on April 11, 2019, determined there was sufficient evidence to warrant further proceedings and that further action should be taken against Dr. Fairman.

CONCLUSIONS OF LAW

1. As a licensee of the Board, Dr. Fairman is subject to the licensing 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. §§ 26-1-9 and 26-2-1 to 26-2-6.
4. In addition to any other sanction imposed, a veterinarian subject to discipline may be assessed the costs and legal fees incurred by or on behalf of the Board. W. Va. Code R. § 26-1-9.5.
5. Dr. Fairman was notified of the allegations against him pursuant to the rules of the Board and the laws of this State.
6. Dr. Fairman was disciplined by the Virginia Board of Veterinary Medicine in February 2018, which discipline should have been reported to this Board.
7. Dr. Fairman was required to provide complete and accurate information to the Board in the course of renewing his West Virginia license on November 5, 2018 and failed to do so.
8. Dr. Fairman falsely certified that he personally completed the online renewal application form submitted November 5, 2018 and that the information provided therein was true and correct.

9. Dr. Fairman failed to otherwise report to the Board the earlier disciplinary action by the Virginia Board of Veterinary Medicine.

10. The Board relied on Dr. Fairman's online renewal application form, submitted November 5, 2018, to renew his West Virginia license.

11. Dr. Fairman's conduct, as described herein, constitutes violations of W. Va. Code §§ 30-10-19(g)(1), (5) and W. Va. Code R. §§ 26-1-7.14, 26-1-8.1.a, and 26-1-8.1.o. Such conduct is therefore grounds for disciplinary action.

CONSENT OF LICENSEE

I, Donald Fairman, DVM, 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 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, Donald Fairman, DVM, 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. Fairman is hereby REPRIMANDED for his actions in this matter.
2. Within sixty (60) days from the date of entry of this Order, Dr. Fairman shall pay to the Board a monetary fine of Two Hundred Fifty Dollars and Zero Cents (\$250.00).
3. Within sixty (60) days from the date of entry of this Order, Dr. Fairman shall reimburse the Board the costs of this proceeding, including 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 or revocation of Dr. Fairman's 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. 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: 5-30-2019
Date

REVIEWED AND AGREED TO BY:

Donald Fairman
Donald Fairman, DVM
Respondent

5/14/19
Date

This day personally appeared before me, Donald Fairman, 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 14th day of May, 2019.

My Commission expires: 04/30/2022

Karen A Magaha
Notary Public

