

BEFORE THE WEST VIRGINIA BOARD OF VETERINARY MEDICINE

**WEST VIRGINIA BOARD OF
VETERINARY MEDICINE,**

COMPLAINANT,

v.

CASE No. 1217C

**BRIANNE MILLER, DVM,
VETERINARIAN LICENSE No. 11-2017,**

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, Brianne Miller, DVM (“Dr. Miller”), 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. Miller written notice of the allegations against her 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 the following *Consent Agreement and Order* to resolve and dispose of this matter.

FINDINGS OF FACT

The Board adopts the following factual findings:

1. Dr. Miller is a licensee of the Board, holding License No. 11-2017, and at all times relevant hereto, practiced veterinary medicine at Cheat Lake Animal Hospital in Morgantown, West Virginia.

2. The Board received a written complaint, dated December 5, 2017, from Linda Sollish ("Ms. Sollish") regarding the veterinary care that her seven-year-old male cat, Tommy, received from Dr. Miller and others at Cheat Lake Animal Hospital on September 18-20, 2017.

3. Ms. Sollish's complaint alleges that, on September 18, 2017, she presented Tommy to Cheat Lake Animal Hospital due to a "bleeding rodent ulcer." The medical records attached to the complaint indicate that Tommy had a "large rodent ulcer right rostral maxillary lip" and a "grade 4/6 parasternal systolic murmur." Tommy underwent lab work, was administered medicine, and then released with instructions to return in one week. At home, however, Tommy continued to exhibit bleeding from the ulcer in his mouth.

4. Ms. Sollish returned to Cheat Lake Animal Hospital with Tommy at approximately 10:00 pm on September 18, 2017. Ms. Sollish was informed that one of Tommy's teeth was rubbing against the ulcer, causing it to bleed, and that the tooth needed to be extracted. Ms. Sollish then left Tommy at the hospital for observation, and the extraction was conducted on the evening of September 19, 2017. Tommy suffered complications following the extraction surgery, which ultimately led to his death in the early morning hours of September 20, 2017. Ms. Sollish claims that she requested Tommy receive a blood transfusion following the surgery, because "his blood was down to 8%."

5. Dr. Miller responded to Ms. Sollish's complaint by letter dated January 17, 2018, with certain of Tommy's medical records enclosed. Dr. Miller states that she was the admitting doctor when Tommy was presented the second time on September 18, 2017 and was the doctor in charge of his care post-operatively on September 19-20, 2017. She claims to have not been involved in Tommy's care during his first visit to Cheat Lake Animal Hospital on September 18, 2017. At intake, Dr. Miller discovered a "new murmur" (grade 4/6

parasternal systolic murmur) and that the “crown of the right mandibular canine (tooth 404) was in contact with the ulcerated area and causing repeated trauma and hemorrhage.” Before Ms. Sollish left the hospital on September 19, 2017, Dr. Miller discussed with her Tommy’s new heart murmur, which “may be related to his anemia or may be new evidence of a primary cardiomyopathy,” and the “risks of anesthesia with the presence of a new heart murmur.”

6. Dr. Miller continues in her response that she was not directly involved in Tommy’s dental extraction on the evening of September 19, 2017, as it was performed by Dr. Holly Kossuth. Tommy was transferred back to her care around 9:50 p.m. and began having complications around 11:15 p.m. Tommy went into respiratory arrest and efforts at CPR were not successful. Ms. Sollish was contacted 15 minutes into CPR, at which time she consented to a blood transfusion because Tommy’s “PCV had dropped from 18% to 10%.” However, Dr. Miller was unable to arrange a blood donor to get to the hospital before Tommy went into cardiac arrest and passed away. Dr. Miller did not earlier recommend or request a blood transfusion because, in her opinion, Tommy “was not clinical for his anemia,” and she does not recommend blood transfusions for patients “that are not acutely progressive in their anemia” or “are not clinical for signs of an anemia.” Dr. Miller discussed several potential causes of death with Ms. Sollish after Tommy had passed.

7. The Board's Complaint Committee reviewed Ms. Sollish's complaint, Dr. Miller’s response, and the medical records and other documents submitted with both. Certain members of the Board also held an informal conference with Dr. Miller on September 7, 2018.

8. Upon recommendation of the Complaint Committee, after reviewing the aforementioned complaint, response, and accompanying documents and conducting the aforementioned informal conference, the Board found deficiencies in the following areas of

Dr. Miller's care of Tommy and determined there was probable cause to believe that Dr. Miller violated the following sections of the West Virginia Code of State Rules and, in turn, W. Va. Code § 30-10-19(g)(3):

- a. Communication between those treating a patient, continuity of care, and recordkeeping regarding the same, in violation of W. Va. Code R. §§ 26-1-9.1.e, 26-4-3.10, 26-4-5.1.a, 26-4-5.2.a, and 26-4-5.3.c; and
- b. Standard of care provided, specifically (1) recommending an elective procedure (tooth extraction) on an anemic animal with active bleeding and (2) failing to further investigate the cause of reported heart murmur, in violation of W. Va. Code R. §§ 26-1-9.1.e, 26-4-3.10, 26-4-5.1.a, and 26-4-5.1.b.

9. The Board issued a *Complaint and Statement of Charges* informing Dr. Miller that it had found the existence of probable cause at its April 12, 2018 Board meeting.

CONCLUSIONS OF LAW

1. Dr. Miller is a licensee of the Board, holding License No. 11-2017, 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. Miller was notified of the allegations against her 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. §§ 26-1-9, 26-4-3, and 26-4-5. Such conduct is therefore grounds for disciplinary action.

CONSENT OF LICENSEE

I, Brianne Miller, 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, Brianne Miller, by affixing her signature hereto, agrees to the following:

ORDER

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

1. Dr. Miller is hereby REPRIMANDED for her actions in this matter.
2. Within six months of the date of entry of this Order, Dr. Miller shall:
 - a. Complete three hours of Board-approved continuing education on the subject of recordkeeping and submit to the Board a certificate of completion or other documentary proof of successful completion; and
 - b. Complete three hours of Board-approved continuing education on the subject of emergency medicine and submit to the Board a certificate of completion or other documentary proof of successful completion.
3. 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. Miller's license to practice veterinary medicine in the State of West Virginia.
4. This document is a public record as defined in West Virginia Code § 29B-1-2(5).
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.
5. 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 DVM
Dr. John R. Wilson, Board Chairman

Entered: 3-6-2019
Date

REVIEWED AND AGREED TO BY:

Brianne Miller DVM
Brienne Miller, DVM
Respondent
2/14/19
Date

This day personally appeared before me, Brienne Miller, 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 her 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 February, 2019.

My Commission expires: NOV. 05, 2023

[Signature]
Notary Public

