

BEFORE THE WEST VIRGINIA BOARD OF VETERINARY MEDICINE

**WEST VIRGINIA BOARD OF
VETERINARY MEDICINE,**

COMPLAINANT,

V.

CASE NOS. 1222A, 0323B AND 1023B

**KEVIN HENNESSY, DVM,
VETERINARIAN LICENSE NO. 8734,**

RESPONDENT.

CONSENT AGREEMENT AND ORDER

NOW COME the West Virginia Board of Veterinary Medicine (“Board”) and Kevin Hennessy, DVM (“Respondent”) for the purpose of agreeing to disciplinary action which shall be taken against Respondent in the above-referenced matters. As a means of compromise, the Board and Respondent hereby agree to resolve these matters by and through a voluntary agreement and consent to disciplinary action, with consideration given to appropriate safeguards for protection of the public.

WHEREAS, on September 6, 2023, the Board and Respondent executed a Consent Agreement and Order resolving Case Nos. 1222A and 0323B. The Consent Agreement and Order is incorporated by reference herein and attached hereto as Exhibit 1.

WHEREAS, on January 4, 2024, the Board, a state entity created and governed by W. Va. Code §§ 30-10-1 *et seq.*, entered a Suspension Order and Notice of Hearing wherein the Board, pursuant to the authority granted to it by W. Va. Code §§ 30-1-8(e)(1), 30-10-5 and 30-10-19, and by W. Va. Code R. § 26-2-6, suspended Respondent’s license to practice veterinary medicine for failing to comply with all provisions of the September 6, 2023 Consent Agreement and Order.

Alternatively, the Board suspended Respondent's license to practice veterinary medicine pending resolution of Case No. 1023B, pursuant to the authority granted to it by W. Va. Code §§ 30-1-8(e)(1), 30-10-5 and 30-10-19, and by W. Va. Code R. § 26-2-6, as the Board found that Respondent's continuation in the practice of veterinary medicine constituted an immediate danger to the public. The Suspension Order and Notice of Hearing is incorporated by reference herein and attached hereto as Exhibit 2.

WHEREAS, the parties mutually desire to settle these matters without further prosecution and a formal hearing, and acknowledge that this agreement is a compromise between the parties.

THEREFORE, it is hereby STIPULATED and AGREED between the undersigned parties that these matters be settled and resolved, the parties having reached an understanding concerning the proper disposition of these matters in controversy, and the Board, approving such an agreement, does hereby FIND and ORDER as follows:

FINDINGS OF FACT

1. Respondent is a licensee of the Board, holding License No. 8734, and at all times relevant, practiced veterinary medicine at Tri-State Animal ER ("Tri-State") in Ceredo, West Virginia.

2. On September 6, 2023, the Board and Respondent executed a Consent Agreement and Order resolving Case Nos. 1222A and 0323B. (*See* Ex. 1).

3. Paragraph 1 of the September 6, 2023 Consent Agreement and Order placed Respondent on probation for a period of two (2) years beginning on the date of entry of the Order and subjected Respondent to certain Board supervision requirements. (Ex. 1 at p. 9). In pertinent part, paragraph 1.b. of the September 6, 2023 Consent Agreement and Order provided: "[i]f during the probationary period, the medical records Respondent submits continue to be insufficient, or if

the Board receives one (1) more complaint in which it determines that probable cause exists to charge Respondent with one or more violations of the Board's governing statutes and rules, the Board will consider more severe action[.]” (*Id.*).

4. On October 31, 2023, the Board received a complaint via e-mail from Lonnie Clary about Respondent's treatment of the Clary family's six-month old puppy, “Duke.”¹ The complaint, which was assigned Case No. 1023B, stated that on or about October 2, 2023, Duke appeared to be ill, weak and very lethargic, with his gums and eyelids white. Ms. Clary suspected that Duke had been exposed to the rat poison the family kept under their house and upon immediate consultation with their family veterinarian, Ms. Clary was advised to take Duke somewhere for Vitamin K treatment. Ms. Clary stated that she contacted Proctorville Animal Clinic and was informed that Duke would need to be seen at an emergency room “due to it being a poisoning situation.”

5. Ms. Clary's husband took Duke to the Tri-State Animal ER where Respondent examined Duke. Ms. Clary stated that her husband informed Respondent what their veterinarian had suggested, but that Respondent did not provide Duke with Vitamin K. Ms. Clary asserted that Respondent performed a blood clotting test and advised that Duke's blood was within “NORMAL range.” Ms. Clary maintained that Respondent also performed a fecal test, which yielded a positive result, and diagnosed Duke with worms, but not poisoning. Duke was prescribed medicine for worms, which the Clary family administered, but that Duke did not show any signs of improvement and ultimately died the next day.

6. On October 31, 2023, the Board sent Respondent correspondence wherein it provided him with the complaint and requested that he respond within thirty (30) days.

¹ Although the complaint was submitted to the Board via Mr. Clary's email address, it was drafted by his wife, Brittany Clary, on behalf of “The Clary Family.”

7. On November 29, 2023, the Board received Respondent's response to the complaint. Respondent acknowledged that he performed a blood clotting profile to determine if Duke had eaten Vitamin K1 responsive type rat poisoning, and that "[c]lotting times were found to be greater than (>) normal indicating the ingestion of the rat poison." Respondent added that the fecal sample obtained from Duke appeared normal and that he diagnosed Duke with hookworms. Respondent stated that he "posted a note on the chart prescribing a course of vitamin K1 and hook wormer," but maintained that the assistant failed to record this information in the chart. Respondent further stated that "[o]nce the chart is out of my hands and passed on I have to rely on an assistant to complete the details." Finally, the Respondent stated that "[t]here was no go home instruction sheet sent home."

8. Based upon documents and information obtained pursuant to the September 6, 2023 Consent Agreement and Order, Respondent has failed to comply with paragraph 1.b. of the Consent Agreement and Order by not maintaining sufficient and complete medical records.

9. On December 4, 2023, the Board found that probable cause existed to pursue disciplinary action against Respondent in Case No. 1023B. Because the Board received a complaint, during the probationary period, in which it determined that probable cause existed to charge Respondent with one or more violations of the Board's governing statutes and rules, Respondent violated paragraph 1.b. of the September 6, 2023 Consent Agreement and Order. The violations that resulted in the finding of probable cause included the following: failure to provide professional standard of care that resulted in a dog dying; failure to maintain adequate patient records, as the records misrepresented lab results; and failure to provide correct interpretation of lab results.

10. Pursuant to paragraph 5 of the September 6, 2023 Consent Agreement and Order, “[a]ny failure to comply with all provisions in this Consent Agreement and Order shall result in the immediate suspension of Respondent’s license for the remainder of the probationary period and may lead to additional disciplinary action, up to and including the further suspension or revocation of Respondent’s license to practice veterinary medicine in the State of West Virginia.” (Ex. 1 at pp. 10-11).

11. Because Respondent violated paragraph 1.b. of the September 6, 2023 Consent Agreement and Order, on January 4, 2024, the Board entered a Suspension Order and Notice of Hearing and suspended Respondent’s license to practice veterinary medicine. The hearing is scheduled for March 27, 2024 at 9:00 a.m. at the Office of the West Virginia Attorney General located at 1900 Kanawha Boulevard, East, State Capitol Complex, Building 6, Suite 402, Conference Room B, Charleston, West Virginia, 25305.

CONCLUSIONS OF LAW

1. Respondent is a licensee of the Board, holding License No. 8734, and is therefore subject to the license 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. §§ 26-1-8 and 26-2-1 to 26-2-6.

4. Respondent was properly notified of the allegations against him and given the opportunity for a hearing in Case Nos. 1222A, 0323B and 1023B, pursuant to the rules of the Board and the laws of this State.

5. Respondent's 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, 26-4-5.1.a., 26-4-5.1.b., and 26-4-5.2.a. Such conduct is therefore grounds for disciplinary action.

CONSENT OF LICENSEE

I, Kevin Hennessy, 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 acknowledge that the execution of this document constitutes disciplinary action by the Board and is therefore considered to be public information.

The Respondent, Kevin Hennessy, 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. Respondent's license, License No. 8734, is hereby REVOKED.
2. Respondent shall surrender his physical license to the Board within thirty (30) days after receipt of this Order.
3. This document is a public record as defined in W. Va. 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.
4. This Consent Agreement and Order constitutes the entire agreement between the parties.

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

WEST VIRGINIA BOARD OF VETERINARY MEDICINE

By: Keith B Berkeley D.V.M
Dr. Keith Berkeley, Board Chairman

Entered: 18 March 2024
Date

REVIEWED AND AGREED TO BY:

[Signature]
Kevin Hennessy, DVM
Respondent
3/5/2024
Date

This day personally appeared before me, Kevin Hennessy, 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 5 day of March, 2024.

My Commission expires: 3/22/2027

Tamra Tredway
Notary Public



TAMRA TREDWAY
Notary Public
State of Ohio
My Comm. Expires
March 22, 2027