

**BEFORE THE WEST VIRGINIA BOARD OF VETERINARY MEDICINE**

**WEST VIRGINIA BOARD OF  
VETERINARY MEDICINE,**

**COMPLAINANT,**

**V.**

**CASE No. 0620A**

**JOHN L. SPIKER, DVM,  
VETERINARIAN LICENSE NO. 28-2012,**

**RESPONDENT.**

**CONSENT AGREEMENT AND ORDER**

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

WHEREAS, Respondent acknowledges that the Board may file a Statement of Charges alleging that he has violated certain provisions of W. Va. Code §§ 30-10-1 *et seq.* and W. Va. Code R. §§ 26-1-1 *et seq.*, and proceed to a hearing and seek disciplinary action in this matter.

WHEREAS, Respondent hereby waives the filing of a formal Statement of Charges and the parties mutually desire to settle this matter without further prosecution and a formal hearing.

WHEREAS, the Board agrees and acknowledges that this agreement is a compromise of claims disputed by Respondent.

THEREFORE, it is hereby STIPULATED and AGREED between the undersigned parties that this matter be settled and resolved, the parties having reached an understanding concerning the proper disposition of the matter 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. 28-2012, and at all times relevant, held an active license with the Board and practiced veterinary medicine in the State of West Virginia.

2. On or about June 24, 2020, the Board received a written complaint and supporting documentation from Wendy Irvin ("Ms. Irvin") regarding the veterinary care that her cat "Magnum" received from Respondent.

3. Ms. Irvin states in her complaint that she took Magnum and three other cats to a neuter clinic held at the Elizabeth Fire Department, located in Wirt County, West Virginia, on the morning of May 19, 2020. There, Respondent performed a neuter procedure on Magnum. Ms. Irvin alleges that, following the procedure, Magnum's incision looked different than the other cats and ultimately "looked raw and then it turned green." Ms. Irvin proceeded to take Magnum to the Belpre Animal Clinic on June 6, 2020, where she was informed the neuter surgery was "botched" and that Magnum would require antibiotics and corrective surgery.

4. By letter to Respondent dated June 24, 2020, the Board transmitted a copy of Ms. Irvin's complaint and requested that Respondent file a written response thereto within 30 days.

5. The Board received Respondent's written response on or about July 22, 2020. In his response, Respondent stated, "I have done several hundred neuters of cats over the last 46 years and have never had this to happen. Yes, a problem arose of which I'm very sorry for." Respondent

offered to reimburse Ms. Irvin for the expenses incurred in Magnum's follow-up care and agreed "with all procedures in the future I will give written policy/discharge instructions on signs of infection & care of animal with clear way to contact me personally with any complications." Respondent also included the surgical notes in his response.

6. The Board's Complaint Committee reviewed Ms. Irvin's complaint, Respondent's response thereto, and the other documents submitted therewith, and found probable cause to believe that Respondent failed to maintain complete patient medical records, including lack of documentation of signalment, weight, pre-surgical exam, post-surgical monitoring, vaccine history, and post-care instructions, and failed to maintain complete controlled substance logs, in violation of W. Va. Code § 30-10-19(g)(3) and W. Va. Code R. §§ 26-1-8.1.5, 26-4-3.10, 26-4-5.1.b, 26-4-5.1.c, 26-4-5.2.a, 26-4-5.3.c, and 26-4-5.3.h.

7. Upon recommendation of the Complaint Committee, and after reviewing the aforementioned complaint, response, and accompanying documents, the Board, by majority vote at its meeting on October 2, 2020, determined there was sufficient evidence to warrant further proceedings and that further action should be taken against Respondent.

### **CONCLUSIONS OF LAW**

1. Respondent is a licensee of the Board, holding License No. 28-2012, 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. §§ 26-1-9 and 26-2-1 to 26-2-6.

4. Respondent does not contest that the Board has probable cause to charge him with one or more violations of the Board's governing statutes and rules based upon its investigation and findings in this matter.

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, John L. Spiker, 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, John L. Spiker, 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 is hereby REPRIMANDED for his actions in this matter.
2. Respondent shall submit to the Board for its review three (3) patient medical records completed and maintained by him from each of his next three (3) spay/neuter clinics, for a total of nine (9) patient medical records.
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 or revocation of Respondent's license to practice veterinary medicine in the State of West Virginia.
4. 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.
5. 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: John R. Wilson DVM  
Dr. John R. Wilson, Board Chairman

Entered: 12-14-20  
Date

REVIEWED AND AGREED TO BY:

John L. Spiker DVM  
John L. Spiker, DVM  
Respondent

12-7-20  
Date

This day personally appeared before me, John L. Spiker, 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 7<sup>th</sup> day of December, 2020.

My Commission expires: MARCH 6, 2022



Laura L. Shaffer  
Notary Public