

**WV BOARD OF VETERINARY MEDICINE  
DISCIPLINARY PROCESSING— OCTOBER 6, 2017**

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Board Chairman: Dr. John Wilson

 10/6/17

Signature/Date

 10-23-2017

Signature/Date

**Refer to WV Code §30-10-1 and §26-2-1 and §26-2A-1**

**Definitions:**

- Complainant – The person making the complaint
- Complaint committee (Small and Large Animal) – 3 board members nominated by the board
- Consent Agreement and Order - A voluntary agreement worked out between the board and Respondent. Complaint committee – Committee of chosen board members
- Final Order – Final board disciplinary ruling
- Investigator - A person hired by the board for the purpose of reviewing and investigating complaints against licensees
- Respondent – The person the complaint is against
- Statement of Charges – Statement detailing charges brought against the Respondent

**Immediate Danger to the Public**

- The board may suspend a license or refuse to renew a license if it determines there is probable cause to believe that the licensee's conduct, practices or acts constitute an immediate danger to the public.

**Time Frames**

- Status report to Complainant – 6 months after complaint is filed, send a status report to Complainant and Respondent by certified mail with a signed return receipt.
- Issue a final ruling - within 1 year of the status report's return receipt date, unless the party filing the complaint and the board agree in writing to extend the time for the final ruling.
- Investigation - Within 60 days upon receipt of a complaint, the investigator will provide the board with a report.
- Final Orders – following a hearing, must be entered within 45 days following the submission of all documents and materials necessary for the proper disposition of the case, including transcripts and administrative law judge decision.
- Copy of Final Order - must be served to the Complainant and Respondent and attorney within 10 days after entry by certified mail.

**Retention**

- No Probable Cause – 5 years
- Probable Cause – Do not destroy

**Completing complaint form:**

1. Do not take complaints over the phone.
2. Do not take anonymous complaints.

3. A complaint form must be completed and notarized and is located on our website. The complaint must contain the following:
  - The name and address of the veterinarian, veterinary technician, animal euthanasia technician against whom the complaint is lodged;
  - The date of care; and
  - The name of any person who may have treated the patient after the alleged incident.

**After receiving the completed complaint form:**

1. Assign the complaint a number and create a new file, ex: 01-2016 (do not list name). Log the complaint information into the disciplinary case electronic database.
2. Send a letter regular mail to the Complainant acknowledging that the matter will be reviewed.
3. If the complaint is outside the jurisdiction of the Board, send a letter with suggestions as to how the complainant might best obtain a resolution.
4. Email/mail to the appropriate disciplinary committee and post onto CloudDocs the non-redacted complaint.
5. Send to the Respondent:
  - Certified letter requesting a response within 30 days of date of correspondence.
  - Copy of complaint and supporting documents
6. If no response from Respondent within 30 days
  - Notify the Disciplinary committee that the case is ready for review and investigation.
7. After receiving response from Respondent:
  - Mail Respondent's response and supporting documents via regular mail to Complainant.
  - Email/mail to the appropriate disciplinary committee and post onto CloudDocs the non-redacted Respondent's response.
  - Mail redacted copies of Complaint, Respondent's response, and backup to the board members.

**Additional Information from Complainant**

1. If Complainant wants to add to the record and the attorney general office approves the additional information.
  - Repeat above steps 2-6.

**Complaint from Board (different from receiving a complaint form because the board is the Complainant).**

1. Assign the complaint a number and create a new file, ex: BVM0116A. Log the complaint information into the disciplinary case electronic database.
2. Send to the Respondent:
  - Board initiated Complaint
  - Certified letter requesting a response within 30 days of date of correspondence
  - Statement of Charges and supporting documents
3. If no response from Respondent within 30 days
  - Notify the disciplinary committee and attorney general office that the case is ready for review and investigation.
4. After receiving response from Respondent or after 30 days of date of correspondence
  - Email/mail to the appropriate disciplinary committee that the case is ready for review and investigation and post onto CloudDocs.

**Investigation**

1. At any point in its investigation of a complaint the board may, at its discretion, assign the matter to an investigator for review and investigation.
2. Upon receipt of a complaint the ethics investigator will, within sixty (60) days, review and investigate the complaint and provide the board with a report.
3. The report must include:
  - Statement of the allegations
  - Statement of facts
  - Analysis of the complaint including a description of the care provided, the records reviewed, persons interviewed and a statement of the investigator's findings

- The investigator will, upon request, be afforded an opportunity to have an investigation interview with the licensee in question or other involved parties; a report of which will be placed in the investigation file.
4. The board or the disciplinary committee may request any person to attend an informal conference, or to appear at a regular meeting of the board, at any time prior to the board entering any order with respect to the complaint.
    - The board or the committee will give notice of the conference. The notice will include a statement of issues to be informally discussed.
    - Statements made at a conference may not be introduced at any subsequent hearing on the merits without the consent of all parties to the hearing.
    - Failure to attend a conference will not prejudice any party to the case.
  5. The board chairman, executive director, or the disciplinary committee may issue subpoenas to complete the investigation and to determine the truth or validity of complaints. The investigator may request the board chairman disciplinary committee to issue a subpoena.
  6. Subpoena request must be accompanied by a brief statement explaining the need for the subpoena.

#### **No Probable Cause Findings**

1. At any point in the course of an investigation or inquiry into a complaint, the board may determine that there is not and will not be sufficient evidence to warrant further proceedings, or that the complaint fails to allege misconduct.
2. The disciplinary committee or investigator makes findings and recommendations to the board prior to the board dismissing the complaint.
3. Send a No Probable Cause certified letter to Respondent, Complainant and attorney.

#### **Probable Cause Findings**

1. The disciplinary committee and the board will discuss and vote for the appropriate disciplinary.
2. The attorney general's office will complete a Statement of Charges and offer a proposed Consent Agreement and Order.
3. Send Statement of Charges and Consent Agreement and Order lieu of a hearing to Respondent via certified mail requesting response within 30 days of correspondence date.

#### **Respondent accepts "Consent Agreement and Order"**

1. The Consent Agreement and Order must be signed by the Respondent and the board chairman signs last. The effective date is the date of the chairman's signature date.

#### **Respondent request a Counteroffer**

1. Notify the disciplinary committee and attorney general office of the counter offer.
2. The disciplinary committee and the board will discuss and vote for the appropriate disciplinary.
3. After board decision, send the new Consent Agreement and Order in lieu of a hearing to Respondent via certified mail requesting response within the board's decision of how many days of correspondence date.

#### **Respondent does not reply to Consent Agreement and Order or Request a Hearing**

1. Set up a hearing date with attorney general's office and the administrative law judge.
2. Hire court reporter (see contracts procedure).
3. Reserve conference room for hearing date.
4. Send Notice of Hearing at least 30 days prior to the date of the hearing.
5. The board will be represented by the attorney general's office.

#### **Administrative Law Judge Decision**

1. Within 45 days from receiving all required documents to decide the matter such as the administrative law judge's decisions, the board will discuss whether to adopt, modify, or reject the judge's recommended decision and vote for the appropriate disciplinary.
2. The attorney general's office will create a Final Order.
3. Within 10 days after entry, send the Final Order to the Respondent, Complainant, and attorney via certified mail.

**Appeals - §26-2A-10**

1. The Respondent may appeal the order within 30 days.

**Invoicing for Administrative Cost and Fines**

1. Administrative cost can be requested at time of Final Order or Consent Agreement and Order to be deposited in separate special revenue fund in the State Treasury designated the WV Board of Veterinary Medicine Fund.
  - Postage
  - Copies
  - Board per diem
  - Attorney generals fees
  - Investigation fees
  - Inspection fees
  - Court reporter fees
  - Administrative law judge fees
  - Ethics investigation fees
2. All fines paid by the Respondent must be deposited into the General Revenue Fund of the State Treasury.

**Reporting Disciplinary**

1. Report disciplinary on the AAVSB website.
2. Post disciplinary and Final Orders/Consent Agreement and Order on WVBVM Website.
3. Send a copy of Final Order/Consent Agreement and Order to the Secretary of State.
4. Report disciplinary to DEA if license is suspended or revoked.
5. Send a copy of Final Order/Consent Agreement and Order to the Complaint, Respondent, and attorney.
6. A certified copy of the Final Order/Consent Agreement and Order can be given with a written request.