

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING
BOARD OF VETERINARY MEDICINE
DISCIPLINARY SUBCOMMITTEE

In the Matter of

ABOLARIN AGBONA, D.V.M.,
License No. 69-01-008492

Complaint No. 69-17-148200
(and 69-18-150496 consolidated)

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A first superseding administrative complaint was filed with the Disciplinary Subcommittee of the Board of Veterinary Medicine on July 31, 2018, charging Abolarin Agbona, D.V.M. (Respondent) with having violated sections 16221(a), (b)(i), (b)(vi) and (h) of the Public Health Code, MCL 333.1101 *et seq.* and Mich Admin Code, R 338.4921.

The parties have stipulated that the Disciplinary Subcommittee may enter this consent order. The Disciplinary Subcommittee has reviewed the stipulation contained in this document and agrees that the public interest is best served by resolution of the outstanding complaint. Therefore, the Disciplinary Subcommittee finds that the allegations of fact contained in the complaint are true and that Respondent has violated sections 16221(a), (b)(i), (b)(vi) and (h) of the Public Health Code and Mich Admin Code, R 338.4921.

Accordingly, for these violations, IT IS ORDERED:

Respondent's license is SUSPENDED for a period of six (6) months and one (1) day.

Respondent will have to petition for reinstatement of the license. If Respondent petitions for reinstatement of his license, the petition shall be in accordance with sections 16245 and 16247 of the Public Health Code and Mich Admin Code, R 792.10711. Under these provisions, Respondent must demonstrate the following by clear and convincing evidence: (1) good moral character; (2) the ability to practice the profession with reasonable skill and safety; (3) satisfaction of the guidelines on reinstatement adopted by the Department; and (4) that it is in the public interest for the license to be reinstated.

Respondent is FINED Two Thousand and 00/100 Dollars (\$2,000.00) to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 69-17-148200 clearly indicated on the check or money order), and shall be payable prior to petitioning for reinstatement. The timely payment of the fine shall be Respondent's responsibility. Respondent shall mail the fine to: Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement Division, Compliance Section, P.O. Box 30189, Lansing, Michigan 48909.

Respondent shall direct any communications to the Department that are required by the terms of this order to: Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement Division, Compliance Section, P.O. Box 30670, Lansing, Michigan 48909.

Respondent may not file a petition for reinstatement sooner than ninety (90) days prior to the end of the suspension period.


Respondent shall be responsible for all costs and expenses incurred in complying with the terms and conditions of this consent order.

If Respondent violates any term or condition set forth in this order, Respondent will be in violation of Mich Admin Code, R 338.1632, and section 16221(h) of the Public Health Code.

This order shall be effective thirty (30) days from the date signed by the Chairperson of the Disciplinary Subcommittee or the Disciplinary Subcommittee's authorized representative, as set forth below.

Signed on 9/20/18

MICHIGAN BOARD OF VETERINARY
MEDICINE

By 
Chairperson, Disciplinary Subcommittee

STIPULATION

The parties stipulate as follows:

1. The facts alleged in the first superseding administrative complaint are true and constitute a violation of the Public Health Code.

2. Respondent understands and intends that, by signing this stipulation, he is waiving the right under the Public Health Code, rules promulgated under the Public Health Code, and the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, to require the Department to prove the charges set forth in the complaint by presentation of evidence and legal authority, and to present a defense to the charges before the Disciplinary Subcommittee or its authorized representative. Should the Disciplinary Subcommittee reject the proposed consent order, the parties reserve the right to proceed to hearing.

3. The Disciplinary Subcommittee may enter the above Consent Order, supported by Board conferee Dwight L. McNally, D.V.M. Dr. McNally or an attorney from the Licensing and Regulation Division may discuss this matter with the Disciplinary Subcommittee in order to recommend acceptance of this resolution.

4. Dr. McNally and the parties considered the following factors in reaching this agreement:

A. Respondent stated that on the morning of September 18, 2017, he performed a physical examination of Max, but did not find the hernia and he further stated that no member of his staff noted that he was supposed to perform a hernia surgery as well as the neuter.

B. Respondent acknowledged that sedating Max a second time posed risks, but he asserted that anytime an animal is sedated it poses risks.

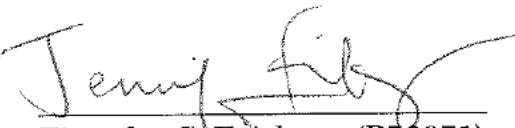
C. Respondent recognized that he failed to appropriately document in Max's medical records. He stated that he performs numerous neuter procedures and they typically are very short, so he does not keep detailed surgical records.

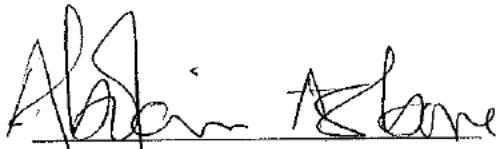
D. Respondent asserted that if Cooper had exhibited any symptoms consistent with a blocked urethra while still at Respondent's clinic, Respondent would have further evaluated Cooper.

By signing this stipulation, the parties confirm that they have read, understand and agree with the terms of the consent order.

AGREED TO BY:

AGREED TO BY:


for Timothy C. Erickson (P72071)
Assistant Attorney General
Attorney for Complainant
Dated: 8-14-18


Abolarin Agbona, D.V.M.
Respondent
Dated: 08-12-18

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING
BOARD OF VETERINARY MEDICINE
DISCIPLINARY SUBCOMMITTEE

In the Matter of

ABOLARIN AGBONA, D.V.M.
License No. 69-01-008492

Complaint No. 69-17-148200
(and 69-18-150946 consolidated)

FIRST SUPERSEDING ADMINISTRATIVE COMPLAINT

Attorney General Bill Schuette, through Assistant Attorney General Timothy C. Erickson, on behalf of Complainant Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, files this first superseding administrative complaint against Respondent Abolarin Agbona, D.V.M., alleging upon information and belief as follows:

1. The Board of Veterinary Medicine, an administrative agency established by the Public Health Code, MCL 333.1101 *et seq.*, is empowered to discipline licensees under the Code through its Disciplinary Subcommittee.
2. Respondent is licensed to practice veterinary medicine and holds a current controlled substance license. At all times relevant to this complaint, Respondent practiced as a veterinarian at Comprehensive Animal Hospital in Lansing, Michigan.
3. Section 16221(a) of the Code authorizes the disciplinary subcommittee to take disciplinary action against a licensee for a violation of general duty, consisting of negligence or failure to exercise due care, including negligent

delegation to or supervision of employees or other individuals, whether or not injury results, or any conduct, practice, or condition that impairs, or may impair, the ability to safely and skillfully practice the health profession.

4. Section 16221(b)(i) of the Code authorizes the disciplinary subcommittee to take disciplinary action against a licensee for incompetence, which is defined in section 16106(1) to mean: “[A] departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for a health profession, whether or not actual injury to an individual occurs.”

5. Section 16221(b)(vi) of the Code authorizes the disciplinary subcommittee to take disciplinary action against a licensee for a “lack of good moral character.” MCL 338.41 defines “good moral character” as “the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.”

6. Section 16221(h) of the Code authorizes the disciplinary subcommittee to take disciplinary action against a licensee for “[a] violation, or aiding or abetting in a violation, of [Article 15] or of a rule promulgated under [Article 15].”

7. Michigan Administrative Code, Rule 338.4921 requires a veterinarian to maintain accurate medical records for each patient and requires that the veterinarian make such records in a timely fashion.

8. Section 16226 of the Code authorizes the disciplinary subcommittee to impose sanctions against persons licensed by the Board, if after an opportunity for a

hearing, the disciplinary subcommittee determines that a licensee violated one or more of the subdivisions contained in section 16221 of the Code.

DISCIPLINARY HISTORY

9. On January 11, 2006, the Bureau filed an Administrative Complaint (69-05-98523) against Respondent's license alleging violations of Sections 16221(a), (b)(i), and (h) of the Code related to Respondent's treatment of a cat and the unsanitary conditions of Respondent's facility. In a consent order dated May 25, 2006, the Disciplinary Subcommittee found the violations as alleged and placed Respondent on probation.

10. On October 11, 2006, the Bureau filed an Administrative Complaint (69-06-101056) against Respondent's license alleging violations of Sections 16221(a) and (b)(i) of the Code for failing to properly treat a dog. In a consent order dated March 29, 2007, the Disciplinary Subcommittee found the violations as alleged and suspended Respondent's license for 14 days and placed Respondent on probation for one year.

11. On October 23, 2007, the Bureau filed an Administrative Complaint (69-07-104062) against Respondent's license alleging violations of Sections 16221(a), (b)(i), and (h) of the Code related to Respondent's treatment of a dog resulting in its death and the unsanitary conditions of Respondent's facility. In a consent order dated August 28, 2008, the Disciplinary Subcommittee found violations of Sections 16221(a) and (h) of the Code. The Disciplinary Subcommittee suspended

Respondent for 14 days, placed him on probation for two years, and fined him \$3,000.00.

12. On December 17, 2014, the Bureau filed an Administrative Complaint (69-14-132141 consolidated with 69-13-127998, 69-13-129829, and 69-13-129997) against Respondent's license alleging violations of Sections 16221(a), (b)(i), and (h) of the Code related to the treatment of three animals and prescribing controlled substances with an expired DEA registration. In a consent order dated June 25, 2015, the Disciplinary Subcommittee found the violations as alleged. The Disciplinary Subcommittee placed Respondent on probation for a minimum period of one day, not to exceed one year, in order to complete 20 hours of continuing education credits and fined him \$3,000.00.

13. On October 12, 2016, the Bureau filed an Administrative Complaint (69-16-143309) against Respondent's license alleging a violation of Section 16221(h) of the Code because Respondent failed to complete the continuing education required by the consent order dated June 25, 2015 (complaint number 69-14-132141). In a consent order dated March 30, 2017, the Disciplinary Subcommittee found the violation as alleged. The Disciplinary Subcommittee placed Respondent on probation for a minimum period of one day, not to exceed one year, in order to complete continuing education and fined him \$2,000.00. This consent order replaced the consent order dated June 25, 2015 (complaint number 69-14-132141).

FACTUAL ALLEGATIONS

Cooper

14. On or about September 7, 2017, Respondent performed a neuter surgery on a dog named Peter (AKA Cooper) for a pet adoption agency.
15. On or about September 9, 2017, David Renkiewicz adopted Cooper.
16. Mr. Renkiewicz noticed that Cooper had difficulty urinating and that it often took Cooper 3-4 minutes to void himself of urine.
17. Between on or about September 11 and October 24, 2017, Mr. Renkiewicz sought treatment for Cooper from several veterinarians.
18. Exploratory surgery on Cooper revealed two clear pieces of suture over Cooper's urethra believed to have been put in place during Respondent's neuter surgery.
19. The sutures caused blockage and inflammation, so they were removed. Despite their removal, a catheter would not pass from the penis through the blockage.
20. A urethrostomy was performed on Cooper, which allowed Cooper to urinate.

Max

21. Loretta Knight brought her Chihuahua/Min-Pin mix puppy named Max to Comprehensive Animal Hospital for Max's initial veterinary visit and immunizations. At this visit, the veterinarian (not Respondent) reported that Max had an umbilical hernia.

22. This veterinarian stated that the hernia could be corrected at the same time as sterilization (neuter).

23. Ms. Knight scheduled the neuter/hernia surgery for September 18, 2017.

24. On the morning of September 18, 2017, Ms. Knight called Respondent's office and spoke with a member of his staff. This staff member indicated that Max's note did not include the hernia surgery, but the staff member assured Ms. Knight that it could be performed along with the neuter surgery.

25. Shortly thereafter, Ms. Knight dropped Max off with Respondent's office.

26. Respondent performed the neuter surgery on the morning of September 18, 2017 using xylazine to sedate the dog.

27. At approximately 3:00 p.m. on September 18, 2017, Respondent called Ms. Knight to report a successful completion of the neuter surgery.

28. Ms. Knight asked Respondent about the hernia surgery and he stated he was unaware that a hernia surgery needed to be performed.

29. Respondent told Ms. Knight that he could perform the hernia surgery and she could pick up Max that evening.

30. Respondent again sedated Max using xylazine and completed the hernia surgery in the evening of September 18, 2017.

31. Respondent inappropriately used 75,000 units of procaine penicillin in Max' postoperative treatment.

32. Ms. Knight picked up Max after Respondent had left the office for the evening. She noticed that Max was caked in vomit when she picked him up.

33. That night Max began to act strangely, and his breathing slowed so Ms. Knight drove to Respondent's office, which was supposed to be open 24-hours-a-day. It was closed.

34. Ms. Knight took Max to the Michigan State University Veterinary Medical Center. Despite chest compressions and oxygen, Max did not resume breathing. He was dead.

35. An expert review of the file revealed the following items lacking in Respondent's medical records for Max:

- a. Surgery timelines;
- b. Max's condition after the first surgery;
- c. How much isoflurane was given;
- d. Fluids given;
- e. Surgical reports;
- f. Anesthetic records;
- g. Physical examination;
- h. Conversations with the owner; and
- i. Informed consent.

36. Respondent should have performed the two surgeries under one anesthetic episode and should have performed the umbilical hernia first (most sterile procedure) and the neuter surgery second (least sterile procedure).

COUNT I

37. Respondent's conduct as described above constitutes a violation of general duty, consisting of negligence and failure to exercise due care, in violation of section 16221(a) of the Code.

COUNT II

38. Respondent's conduct as described above constitutes incompetence, in violation of section 16221(b)(i) of the Code.

COUNT III

39. Respondent's conduct as described above constitutes a lack of good moral character, in violation of section 16221(b)(vi) of the Code.

COUNT IV

40. Respondent's conduct as described above constitutes a failure to properly maintain medical records, contrary to Mich Admin Code, R 338.4921, in violation of section 16221(h) of the Code.

THEREFORE, Complainant requests that this complaint be served upon Respondent and that Respondent be offered an opportunity to show compliance with all lawful requirements for retention of the aforesaid license. If compliance is not shown, Complainant further requests that formal proceedings be commenced pursuant to the Public Health Code, rules promulgated pursuant to it, and the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*

RESPONDENT IS HEREBY NOTIFIED that, pursuant to section 16231(8) of the Public Health Code, Respondent has 30 days from receipt of this complaint to submit a written response to the allegations contained in it. The written response shall be submitted to the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, Michigan 48909, with a copy to the undersigned assistant attorney general. Further, pursuant to section

16231(9), failure to submit a written response within 30 days shall be treated as an admission of the allegations contained in the complaint and shall result in transmittal of the complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

FURTHER, the administrative complaint previously filed against Respondent on March 28, 2018 is hereby WITHDRAWN and replaced in full by this superseding complaint.

Respectfully submitted,

BILL SCHUETTE
Attorney General



Timothy C. Erickson (P72071)
Assistant Attorney General
Licensing & Regulation Division
525 W. Ottawa, 3rd Floor, Wms Bldg
P.O. Box 30758
Lansing, Michigan 48909
(517) 373-1146

Date: July 31, 2018

PROOF OF SERVICE

The undersigned certifies that on the date indicated above a copy of the foregoing document was served upon Abolarin Agbona, D.V.M., Respondent, in pro per by mailing the same enclosed in an envelope bearing first class postage fully prepaid and plainly addressed as follows and/via email to:

Abolarin Agbona, D.V.M.

Lansing, MI 48911


Susan Macias