

**WV BOARD OF VETERINARY MEDICINE
DISCIPLINARY PROCESSING
EFFECTIVE JANUARY 4, 2024**

Prepared by: Patricia Holstein, Executive Director

Board Chair


Signature/Date


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.
- 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 the Complainant and Respondent by certified mail or another means providing proof of delivery.
- 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.
- Board Investigation - within 60 days, unless Board specifies another time period, 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 within 10 days after entry by certified mail or another means providing proof of delivery.

Retention

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

Completing complaint form

1. Do not take complaints over the phone.
2. A complaint form located on the Board's website, or any other written form must be completed. The complaint shall contain the following:
 - The name and address of the veterinarian, veterinary technician, or animal euthanasia technician against whom the complaint is lodged.
 - The date of incident.
 - The name of any person who may have treated the patient after the alleged incident.
 - Any corroboration and/or documentation relevant to the allegations specified in the complaint.

After receiving the completed complaint

1. Assign the complaint a number and create a new file, ex: 0118A (do not list name). Log the complaint information into the disciplinary case electronic database.
2. 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.
3. Email/mail to the appropriate Complaint Committee members the non-redacted complaint.
4. Send to the Respondent:
 - Certified letter or another means providing proof of delivery requesting a response within 30 days of date of correspondence.
 - Copy of complaint and supporting documents
5. If no response from Respondent within 30 days
 - Notify the Complaint Committee members that the case is ready for review and investigation.
6. After receiving response from Respondent:
 - Mail Respondent's response and supporting documents via regular mail to Complainant.
 - Email/mail to the appropriate Complaint Committee members the non-redacted Respondent's response.
 - Mail redacted copies of Complaint, Respondent's response, and backup to the Board members.

Complaint from Board (different from receiving a complaint 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 or another means providing proof of delivery 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 Complaint Committee members 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 Complaint Committee members that the case is ready for review and investigation and
 - Mail redacted copies of Complaint, Respondent's response, and backup to the Board members.

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 Investigator will, within (60) days, unless Board specifies another time period, review and investigate the complaint and provide the Board with a report.
3. The Board or the Complaint 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 Complaint 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.
4. The Board Chairman, Executive Director, or the Complaint Committee may issue subpoenas to complete the investigation and to determine the truth or validity of complaints requested by the Board, Attorney General's Office, or the Investigator.

No Probable Cause Findings or Dismissal

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 Complaint Committee or Investigator makes findings and recommendations to the Board prior to the Board dismissing the complaint.
3. Send a No Probable Cause or Dismissal certified letter or another means providing proof of delivery to Respondent, and Complainant.
4. Only the case number will be listed on the agenda and minutes unless probable cause is found.

Probable Cause Findings

1. The Complaint Committee and the Board will discuss. The Complaint Committee will abstain from voting 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 in lieu of a hearing to Respondent via certified mail or another means providing proof of delivery requesting response within 30 days of correspondence date.
4. The case number will be listed on the next agenda and minutes.

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 Board Chairman's signature date.
2. The Consent Agreement terms will be listed on the next Board meeting agenda and minutes.

Respondent requests a Counteroffer

1. Notify the Board and Attorney General's Office of the counteroffer.
2. The Complaint Committee and the Board will discuss and vote for the appropriate disciplinary.
3. After Board decision, if applicable, send the new Consent Agreement and Order in lieu of a hearing to Respondent via certified mail or another means providing proof of delivery 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.
2. Hire court reporter and administrative law judge (see contracts procedure).
3. Reserve conference room for hearing date.
4. Send Notice of Hearing to the Respondent 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, and Complainant, via certified mail or another means providing proof of delivery.

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 a separate special revenue fund in the State Treasury designated the WV Board of Veterinary Medicine Fund. Examples, but not limited to:
 - Postage
 - Copies
 - Board per diem
 - Attorney General's fees
 - Investigation fees
 - Inspection fees
 - Court reporter fees
 - Administrative law judge fees
 - Ethics investigation fees
 - Drug testing
 - Psychological testing
2. All fines paid by the Respondent must be deposited into the General Revenue Fund of the State Treasury.

Non-Compliance CE Audits

1. If a veterinarian or RVT is non-compliant for the yearly CE audit, the Executive Director can sign the Consent Agreement.
2. The Executive Director will notify the Board the licensee/registrant's names for CE Audit Deficiencies
3. Order should be:
 - \$100 fine
 - Within 90 days from Order, reimbursement to the Board
 - Within 6 months, complete the number/type of CE hours for which they were deficient and to submit proof of attendance
 - These hours cannot be part of the CE requirement for the current year
 - Submit to a CE audit for the next calendar year.

No Probable Complaints with Patient Record Deficiency Findings

1. If a complaint is found to be no probable but the Board has found patient records deficiencies, the Board will initiate a Board complaint against the Respondent for the deficient patient records.

Reporting Disciplinary

1. Report disciplinary on the AAVSB website.
2. Post disciplinary and Final Order/Consent Agreement and Order on WVBVM website.
3. Send a copy of Final Order/Consent Agreement and Order to the Secretary of State.
4. Send a copy of Final Order/Consent Agreement and Order to the Complainant and Respondent.
5. A certified copy of the Final Order/Consent Agreement and Order can be given with a written request.