STATE OF MARYLAND
DEPARTMENT OF AGRICULTURE
BEFORE THE STATE BOARD OF VETERINARY MEDICAL EXAMINERS

IN THE MATTER OF THE COMPLAINT OF	*	
WANDA DOBBINS AGAINST	*	
JEFFREY HESS, D.V.M	*	DOCKET NO. 96-053
LICENSE NO. 1850	*	

* * * * * * * * * * * *

DECISION AND ORDER

As specified in the attached Agreement, approved by the State Board of Veterinary Medical Examiners (Board), dated August 28, 1997, between Jeffrey Hess, D.V.M. and Thomas F. Filbert, Assistant Attorney General and Presenter of Evidence on Evidence on the Board's behalf, the Board finds that the facts stated therein constitute sufficient evidence to support Dr. Hess' admission to Counts III and IV of the Charging Document filed in this matter. Counts III and IV alleged respectively that Dr. Hess failed:

1. To inform the owner of (a) the risks associated with a cricopharyngeal myotomy [the means that he employed to treat the dog's difficulty swallowing post-surgically, that being, following the bilateral bullae osteotomies that he had performed upon the dog] and (b) the diagnostic procedures available to evaluate the dog's difficulty swallowing, such as electromyography or barium swallow under fluoroscopy, before performing the second surgery, a violation of COMAR 15.14.01.04; and

2. To consult a neurologist either before or after performing the cricopharyngeal myotomy when the difficulty that the dog had swallowing did not improve, and the quality of veterinary service may have been enhanced by such consultation, a violation of COMAR 15.14.01.08.

Concluding as a matter of law that Dr. Hess violated Counts III and IV of the Charging Document as specified above, the Board, on this 10th day of September, 1997, pursuant to the terms of the attached Agreement, **ORDERS:**

A. That Dr. Hess' license to practice veterinary medicine in this State is suspended for a period of 30 days; but that this suspension is stayed;

B. That Dr. Hess is placed on probation for a period of one year under the following terms and conditions:

(a) That Dr. Hess, within 30 days from the date of this Order, reimburse Ms. Wanda Dobbins, the owner of the animal that is the subject of this action, $5500.00 for certain medical expenses that she has incurred in connection with this case; and

(b) That Dr. Hess obey all laws and regulations governing the practice of veterinary medicine in this State; and

(3) That Counts I and II of the Charging Document filed in this matter are dismissed.



Donald M. Carman, D.V.M.
President
State Board of Veterinary
Medical Examiners

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* * * * * * * * * * * * *

AGREEMENT

THIS AGREEMENT, dated this 28 day of August, 1997, is between JEFFREY HESS, D.V.M. (License No. 1850) and THOMAS F. FILBERT, Assistant Attorney General and Presenter of Evidence on behalf of the State Board of Veterinary Medical Examiners ("Board"). Its purpose is to resolve the disciplinary action that the Board brought against Dr. Hess pertaining to his treatment of "Wiggins", a 6.5 year-old male cocker spaniel owned by Wanda Dobbins.

Under the terms of the Agreement, the Board shall proceed against Dr. Hess only with respect to Counts III and IV of the Statement of Charges. In those counts, the Board charged respectively that Dr. Hess failed :

1. To inform the owner of (a) the risks associated with a cricopharyngeal myotomy [the means that he employed to treat the dog's difficulty swallowing post-surgically, that being, following the bilateral bullae osteotomies that he had performed upon the dog] and (b) the diagnostic procedures available to evaluate the dog's difficulty swallowing, such as electromyography or barium swallow under fluoroscopy, before performing the second surgery, a violation of COMAR 15.14.01.04; and

2. To consult a neurologist either before or after performing the cricopharyngeal myotomy when the difficulty that the dog had swallowing did not improve, and the quality of veterinary service may have been enhanced by such consultation, a violation of COMAR 15.14.01.08.

By entering into this Agreement, Dr. Hess admits to these charges. In exchange for this admission, the Board agrees to dismiss the remaining charges, that being,

Counts I and II; and to limit the sanction that it can impose against Dr. Hess in this matter as follows: While the Board will suspend Dr. Hess' license to practice veterinary medicine in this State for a period of thirty (30) days, it will stay this suspension and place him on probation for a period not to exceed one year under the following terms and conditions:

1. That Dr. Hess - within thirty (30) days from the date of the Board's order in this matter - reimburse the owner the medical expenses she has incurred in connection with this case not to exceed $5500; and

2. That Dr. Hess obey all laws and regulations governing the practice of veterinary medicine in this State.

In support of Dr. Hess' admission to Counts III and IV, it is stipulated to and agreed by the parties that Dr. Hess is licensed to practice veterinary medicine in this State, and has been at all times relevant to the charges filed against him in this matter. It is further stipulated and agreed as follows:

(1) On or about July 29, 1996, Dr. Hess undertook the care of "Wiggins", a 6.5 year-old male cocker spaniel owned by Wanda Dobbins, and performed surgery upon the dog, to-wit: bilateral bullae osteotomies;

(2) Post-surgically "Wiggins" had difficulty swallowing; and although this condition did not improve over time, Dr. Hess failed to consult a neurologist;

(3) Dr. Hess performed a cricopharyngeal myotomy without first apprising the owner of:

(a) The risks associated with this treatment option; and

(b) Certain diagnostic procedures readily available to better evaluate the difficulty "Wiggins" had in swallowing, such as electromyography or barium swallow under fluoroscopy;

(4) Although "Wiggins" still continued to experience difficulty in swallowing after undergoing the cricopharyngeal myotomy, Dr. Hess still did not consult a neurologist.

(5) After being released from Dr. Hess' care, "Wiggins" was seen by Dr. Krista Evans who referred the dog to VCA Veterinary Referral Associates for a neurologic evaluation.

(6) "Wiggins" was treated by Dr. Susan Hackner (a veterinary internist) and evaluated by Dr. Michael Knoeckel (a veterinary neurologist). In her write-up on "Wiggins", Dr. Hackner opines concerning " Wiggins' " condition: "Dysphagia, megaesophagus, and laryngeal paralysis indicate locally extensive denervation";

(7) If called to testify by the Board, Dr. Peter Shires, Diplomate, ACVS, would opine that a reasonably competent practitioner, acting under same or similar circumstances, would have performed certain diagnostic procedures to evaluate the dog's difficulty swallowing, such as electromyography or barium swallow under fluoroscopy, before performing a cricopharyngeal myotomy, or have referred the dog for a neurologic evaluation before undertaking this procedure; and would have advised the owner of same and the risks associated with a cricopharyngeal myotomy; and finally would have advised that the dog have a neurologic evaluation if it continued having difficulty swallowing after undergoing this procedure.

Dr. Hess acknowledges that he is entering into this Agreement knowingly and intelligently; and further that he has spoken with counsel before entering into this Agreement. Dr. Hess waives his right to a hearing on these charges and further waives his right to appeal the Board's decision in this matter.

The Board accepts this Agreement, finds that there is sufficient evidence to support Dr. Hess' admission to Counts III and IV, and agrees to limit its sanction in this matter as specified above and dismiss the remaining charges filed against him.

JEFFREY HESS, D.V.M.

THOMAS F. FILBERT
Assistant Attorney General

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

BY: Donald M. Carman, D.V.M.
DONALD M. CARMAN, D.V.M.

Date: October 3, 1997

RECEIPT

Re: Wanda Dobbins v. Jeffrey Hess, D.V.M.
Docket No. 96-053 Before the State Board of
Veterinary Medical Examiners

I, Wanda Dobbins, acknowledge that I have received a check in the sum of $5,500 from Dr. Jeffrey Hess in connection with the above referenced matter.

Wanda Dobbins

STATE OF MARYLAND
DEPARTMENT OF AGRICULTURE
BEFORE THE STATE BOARD OF VETERINARY MEDICAL EXAMINERS

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2. To consult a neurologist either before or after performing the cricopharyngeal myotomy when the difficulty that the dog had swallowing did not improve, and the quality of veterinary service may have been enhanced by such consultation, a violation of COMAR 15.14.01.08.

By entering into this Agreement, Dr. Hess admits to these charges. In exchange for this admission, the Board agrees to dismiss the remaining charges, that being,

Counts I and II; and to limit the sanction that it can impose against Dr. Hess in this matter as follows: While the Board will suspend Dr. Hess' license to practice veterinary medicine in this State for a period of thirty (30) days, it will stay this suspension and place him on probation for a period not to exceed one year under the following terms and conditions:

1. That Dr. Hess - within thirty (30) days from the date of the Board's order in this matter - reimburse the owner the medical expenses she has incurred in connection with this case not to exceed $5500; and

2. That Dr. Hess obey all laws and regulations governing the practice of veterinary medicine in this State.

In support of Dr. Hess' admission to Counts III and IV, it is stipulated to and agreed by the parties that Dr. Hess is licensed to practice veterinary medicine in this State, and has been at all times relevant to the charges filed against him in this matter. It is further stipulated and agreed as follows:

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The Board accepts this Agreement, finds that there is sufficient evidence to support Dr. Hess' admission to Counts III and IV, and agrees to limit its sanction in this matter as specified above and dismiss the remaining charges filed against him.

GREY HESS, D.V.M.

THOMAS F. FILBERT
Assistant Attorney General

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

BY: Donald M. Carman, D.V.M.
DONALD M. CARMAN, D.V.M.

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(b) That Dr. Hess obey all laws and regulations governing the practice of veterinary medicine in this State; and

(3) That Counts I and II of the Charging Document filed in this matter are dismissed.



Donald M. Carman, D.V.M.
President
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