

WRITTEN TESTIMONY OF ROBERT A. SMITH

I thank the committee for the opportunity to testify today.

I strongly support this legislation to require the State Board of Veterinary Medical Examiners to report each year on its disciplinary activities for the previous fiscal year.

From my personal experience as a complainant, I firmly believe that the Board needs to be more transparent about, and more accountable for, its disciplinary activities. Hopefully, this legislation will help further these objectives.

I urge that the report include metrics on the number of disciplinary cases in which contested case hearings are offered, and on the number and percentage of those contested case hearings offered which ultimately result in a negotiated resolution. I also urge that consideration be given to having the Board report on improvements to the disciplinary process and how these benefit the public. Finally, I recommend that annual report be made available to the public and that an opportunity be provided for public comment.

When a family's beloved companion animal is injured or dies unexpectedly while in the care of a veterinarian or veterinary facility, you want answers to explain how this occurred. You do this, not for punitive reasons, but to assure yourself that despite the outcome your beloved family member had received appropriate care. Mistakes happen and they can be logically explained. However, it is when you are unable to get a reasonable explanation for this tragic event – and you are stonewalled in your attempts to get medical records, or the few medical records that you do receive are lacking critical details regarding care and reflect conflicting or false information – that you suspect the cover-up of veterinary malpractice. This was our experience.

When we filed our complaint, we did so solely to get to the truth and to a determination about the appropriateness of care that our beloved 7 year-old dachshund received before he died under mysterious circumstances at a specialty veterinary facility after an ultrasound evaluation and we were unable to get a veterinarian to return our repeated calls about his status. Our complaint very carefully laid out the implicating evidence in detail. The veterinary shortcomings were startling and inexplicable. These shortcomings were much more than minor recordkeeping oversights.

After months of eager anticipation, we received a letter from the State Board of Veterinary Medical Examiners notifying us of the outcome and enclosing a copy of the Consent Agreement and Order. The letter commented that the opinion of a board certified specialist was a part of the case file. Much to our surprise, the enclosed Consent Agreement and Order's plea bargained findings of fact consisted of one disjointed, unintelligible sentence that combined elements of two unrelated events. Moreover, the Consent Agreement and Order reflected an erroneous date for the offense. [We subsequently wrote to the responsible Assistant Attorney General who acknowledged the date error, but did not take appropriate action to officially correct this formal government public document.] This Consent Agreement and Order makes no mention of our dachshund's death and provides no explanation whatsoever about the appropriateness of care prior to his death.

Consequently, we had no more insight regarding the care for our dachshund than we had before we filed the complaint. In fact, we had more questions about it because we did not know what additional details were contained in the board certified specialist's opinion or in the original charging document which we were denied access. We were left feeling twice victimized – once by the veterinary facility and again by the Board. No other Consent Agreement and Order that we have seen contains so little detail.

During the years since we filed the complaint, my wife and I have conducted extensive research of the Board's disciplinary activities. If you thoroughly review and analyze the Board's disciplinary rules, processes, and practices you will see that these have been historically administered in a manner that causes bureaucratic disenfranchisement for those who file complaints by systematically depriving them of information regarding their cases.

There are three main causes for this dilemma –

- 1-Complainants are treated as members of the public with no more access to information in the case that they initiated than any other member of the public.
- 2-The Public Information Act, in regard to licensee disciplinary actions, permits only the release of disciplinary final orders to the public. So, only those details regarding the case that are contained in the final orders are available to complainants. Complainants are entitled to nothing more.
- 3- It is the Board that determines which details are included or excluded in disciplinary final orders. Through negotiated settlements with veterinarians, the

Board has the discretion to significantly limit the details of veterinary violations in formal disciplinary actions. After the Board issues a charging document in formal disciplinary actions, it offers the veterinarian the opportunity to either accept the charges and proposed punishment -- or pursue due process through a contested case hearing. However, the Board routinely uses its broad discretion to avoid time-consuming contested case hearings in order to achieve plea bargained formal settlements. The resultant final orders may not capture charging document details regarding the severity and totality of veterinary violations, but only that language which is agreed upon between the Board and the veterinarian, no matter how diluted the language may be. This final order, which is the only disciplinary work product the complainant is allowed to see, deprives the complainant of details regarding the severity and totality of the veterinary violations in his or her case.

What I cite here is only one bureaucratic impediment that the Maryland public may encounter when pursuing a veterinary complaint. It is illustrative of the need to ultimately consider a revision of the Board's disciplinary practices to achieve results that are more transparent and responsive to the public.

I thank you.