



State of New Jersey

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF VETERINARY MEDICAL EXAMINERS
124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

JAMES E. MCGREEVEY
Governor

RECEIVED and FILED by the
NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS
on this date of: May 28, 2004

PETER C. HARVEY
Attorney General
RENI ERDOS
Director

May 18, 2004

Mailing Address:
P.O. Box 45020
Newark, NJ 07101
(973) 504-6500

By Certified and Regular Mail

Norman J. Stack, VMD
VALLEY VETERINARY HOSPITAL
2172 Millburn Avenue at Valley Street
Maplewood, New Jersey 07040

Re: I/M/O NORMAN J. STACK, VMD
Complaint Number: 02-074

Offer of Settlement In Lieu of Disciplinary Proceeding

Dear Dr. Stack:

This letter is to advise you that the New Jersey State Board of Veterinary Medical Examiners (hereinafter referred to as the "Board") has had an opportunity to review information it received concerning your professional conduct following its review of a complaint filed by Marie A. Albanese. The complaint alleges, among other contentions, that you engaged in negligence, failed to respond to an emergency and failed to release patient records during the treatment you rendered to her nine (9) year old Greyhound, "Penny," on or about April 30, 2002.

Specifically, the information reviewed by the Board included, but is not limited to, the following documents:

1. A complaint filed by Mrs. Albanese with the Board's administrative office on or about July 23, 2002, as well as any and all attachments and exhibits; and

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2. A correspondence dated August 5, 2002, from Dr. Stack, as well as any and all attachments and exhibits; and

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that you violated and/or failed to comply with the provisions of the Veterinary Medicine Practice Act and its accompanying regulations which are administered by the Board, in violation of N.J.S.A. 45:1-21(h), in that you failed to release Penny's medical records to a subsequent treating veterinarian contrary to N.J.A.C. 13:44-4.9(c).

Specifically, the Board's review into this matter revealed that Penny was admitted into your hospital, Valley Veterinary Hospital ("Valley"), on April 30, 2002, for a dental procedure. Penny was sedated by you and the procedure was performed. However, during the dog's recovery from anesthesia, Penny began to pant, became disoriented and developed a high fever. You initiated appropriate medical treatment in order to treat Penny's condition following the dental procedure however her condition continued to deteriorate. Later, on the evening of April 30, 2002, Mrs. Albanese decided to transfer Penny to Animal Emergency and Referral Center ("West Caldwell"), in West Caldwell, for treatment.

Later, on or about May 2, 2002, Penny was taken by her owner to Harlingen Veterinary Clinic ("Harlingen") following her treatment at West Caldwell. At West Caldwell, the dog had been treated for complications secondary to supposed malignant hyperthermia suffered during a dental procedure. Harlingen's attempts to treat Penny were unsuccessful and she was euthanized on or about May 3, 2002.

The records reviewed by the Board in this matter indicate that the office staff and the veterinarian, of Harlingen Veterinary Clinic, contacted your office and requested copies of Penny's medical records. However, according to the records of the subsequent treating veterinarian, you and/or your office staff refused to speak to any representative from Harlingen and refused to send a facsimile of Penny's medical records. The Board finds that this conduct violates the mandates of N.J.A.C. 13:44-4.9.

N.J.A.C. 13:44-4.9(c) provides, in the pertinent portion, that:

Copies of a licensee's record . . . and copies of all pertinent objective data and papers pertaining to a given patient, . . . **shall be furnished** to the patient's owner, a designated representative or a designated veterinarian within 30 days of a written request by the owner or duly authorized representative **or within such lesser time as may be necessary for the care of the patient** . . . [N.J.A.C. 13:44-4.9(c); emphasis added].

The Board concludes that this regulation required you to provide the medical reports to Dr. Newman and/or her clinic at your earliest convenience since you were aware of the dog's condition and need for treatment. The Board determined that your failure and/or refusal to release Penny's medical records, in compliance with N.J.A.C. 13:44-4.9, constitutes a violation of N.J.A.C. 13:44-4.9(c).

At this juncture, the Board has determined that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that determination, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceedings, should you consent to:

1. You are hereby formally reprimanded by the Board for failing to release Penny's medical records as required by N.J.A.C. 13:44-4.9(c);
2. Cease and desist from violations of the patient records rule, namely N.J.A.C. 13:44-4.9(c); and
3. Pay a penalty in the amount of \$1,000.00, to be paid immediately upon your signing of the acknowledgment at the bottom of this letter, for your violation of N.J.S.A. 45:1-21(h) and N.J.A.C. 13:44-4.9.

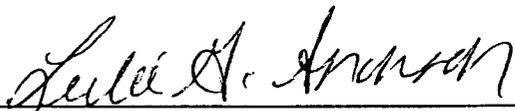
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If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. In such event, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate disciplinary action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order, requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Olga E. Bradford, who may be reached at (973) 648-3696.

If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of the appropriate enforcement action.

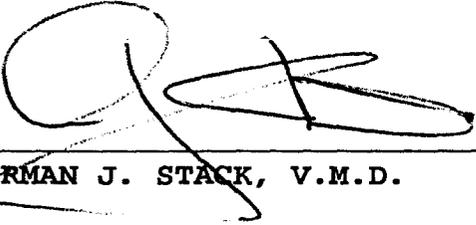
NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

By: 
LESLIE G. ARONSON
Executive Director

ACKNOWLEDGMENT: I, **NORMAN J. STACK, V.M.D.**, hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I, desiring to resolve this matter without the need for further disciplinary proceedings to determine the merits of the allegations, without admissions and for purposes of settlement only, acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to comply with the provisions outlined in the Offer of Settlement.

DATED:

5/27/04



NORMAN J. STACK, V.M.D.

cc: Deputy Attorney General Olga E. Bradford