

RECEIVED and FILED by the
NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS
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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS -
BOARD OF VETERINARY MEDICAL EXAMINERS

IN THE MATTER OF: :

WALLY WASS, D.V.M., PhD., ACVIM : CONSENT ORDER

TO PRACTICE VETERINARY MEDICINE :
IN THE STATE OF NEW JERSEY :
_____ :

This matter was opened to the State Board of Veterinary Medical Examiners ("Board") following the Board's review of a consumer complaint which alleged that Wally Wass, D.V.M., in or about February 20, 2003, provided substandard care to a six (6) month old male Rat Terrier dog named "Junior," owned by Barbara A. James. Specifically, Ms. James alleged that the respondent engaged in professional misconduct and negligence while neutering her dog.

Ms. James presented Junior to Associated Humane Societies {"AHS"}, in Newark,

New Jersey, where Dr. Wass is employed, to be neutered, at approximately 8:30 a.m., on February 20, 2003. Respondent's physical examination, which had been done several weeks earlier, revealed that Junior was a cryptorchid with one testicle retained in the abdominal cavity. The surgery was performed by Dr. Wass on that same day. During the surgery, the respondent noted that the retained testicle was very close to Junior's bladder.

Later in the day, the owner was advised by Dr. Wass that Junior had suffered some adverse complications resulting from surgery and that a second surgery had been performed.

On February 21, 2003, Ms. James was advised that Junior was not eating well but that he would be discharged to her to recuperate. Junior was discharged on that day at approximately 4:00 p.m. After a night in which Junior was vomiting and refusing to eat anything, Ms. James called Dr. Wass at 9:00 a.m. on Saturday, February 22, 2003. She alleges that he told her to bring the dog back on Monday if Junior had not improved over the weekend.

On February 23, 2003, Junior was still vomiting, could not stand and was not urinating. Ms. James contacted Junior's treating veterinarian and was referred to the Animal Emergency and Referral Center in West Caldwell, New Jersey ("West Caldwell"). Junior underwent emergency surgery at West Caldwell following a determination that urine was in his stomach and being reabsorbed into his bloodstream. The surgery entailed the removal of a portion of his bladder and reconstructive surgery on his kidney.

On June 25, 2003, the respondent appeared, without counsel, at an investigative inquiry into this matter held by the Board. In the course of his testimony, Dr. Wass

advised that he, during the surgery, located and removed the retained testicle. He also admitted that he had obstructed Junior's bladder in the process and confessed that he was unclear how this occurred. He opined that he believes he accidentally made a small nick in the bladder while closing the surgery wound which he thought he had repaired.

However, he was unsure as to whether this occurred during the first or second surgery.

As to Junior, Dr. Wass testified that he did not provide the owner with surgical discharge instructions or emergency protocol. Additionally, he advised that AHS did not provide information to clients as to emergency procedures, namely a referral to an appropriate emergency facility to handle cases when AHS is closed.

Additionally, Dr. Wass testified as to his role and duties at AHS. He is the only licensed veterinarian at the Newark location and holds the position of Director of Veterinary Services. The respondent admitted that the medical records of AHS are "very poor," including those presented for Junior, because the documents contain very little information. According to the respondent, AHS is in the process of establishing a computerized medical records system. Moreover, Dr. Wass testified that he permits veterinary technicians employed at AHS to clean and suture wounds.

Having reviewed the entire record, including the testimony of the respondent and written documentation in this matter, the Board finds that cause for disciplinary action against Dr. Wass exists as a result of the conduct detailed above. Specifically, the Board finds that Dr. Wass engaged in gross negligence which damaged or endangered the life, health, welfare or safety of Junior, in violation of N.J.S.A. 45:1-21(c), in that he nicked the dog's bladder during surgery. Additionally, the Board concludes that the Dr. Wass engaged in professional misconduct, contrary to N.J.S.A. 45:1-21(e), in failing to provide

surgical discharge instructions and emergency protocols to the owner.

The Board, moreover, finds that the respondent violated or failed to comply with the provisions of the Veterinary Medical Practice Act, and the accompanying regulations, contrary to N.J.S.A. 45:1-21(h), in that Junior's medical records failed to contain the necessary and required information mandated by N.J.A.C. 13:44-4.9. Finally, the Board concludes that Dr. Wass permitted unlicensed persons to perform an act for which a license issued by the Board is required, in violation of N.J.S.A. 45:1-21(n) by permitting suturing by veterinary technicians.

It appearing that the respondent desires to resolve this matter without the need for formal disciplinary proceedings; and the respondent acknowledging the findings of fact and conclusions of law made by the Board; and the Board having been satisfied that the within resolution adequately protects the public health, safety and welfare; and for good cause shown:

IT IS on this 26th day of May 2004,

ORDERED that:

1. The respondent, Wally Wass, D.V.M, is hereby formally reprimanded for engaging in conduct including gross negligence, professional misconduct, permitting unlicensed practice and failing to maintain adequate medical records contrary to N.J.S.A. 45:1-21(c), (e), (h) and (n), respectively.
2. Dr. Wass shall hereby cease and desist from engaging in gross negligence, professional misconduct, permitting the unlicensed practice of veterinary medicine and

failing to maintain adequate records.

3. The respondent is hereby assessed civil penalties, pursuant to N.J.S.A. 45:1-22, in the aggregate amount of **\$9,000.00**, for the findings specified above, consisting of a \$2,500.00 penalty for gross negligence; \$2,500.00 for professional misconduct; \$2,500.00 for violation of the patient records regulation; and \$1,500.00 for permitting unlicensed persons to perform acts for which a veterinary license is required. Payment for the civil penalty shall be submitted no later than forty-five (45) days from the entry of this Consent Order, by certified check or money order, made payable to the State Board of Veterinary Medical Examiners and shall be forwarded to Leslie Aronson, Executive Director, Board of Veterinary Medical Examiners, 124 Halsey Street, Sixth Floor, Post Office Box 45020, Newark, New Jersey 07101. Any subsequent violations will subject respondent to enhanced penalties as provided in N.J.S.A. 45:1-25.

4. Respondent is hereby assessed costs in the amount of **\$240.00** incurred by the State in this matter. Payment for the costs shall be submitted by certified check or money order, made payable to the State Board of Veterinary Medical Examiners and submitted no later than forty-five (45) days from the entry of this Consent Order. Payment shall be forwarded to Leslie Aronson, Executive Director, at the address described in paragraph number 2 above.

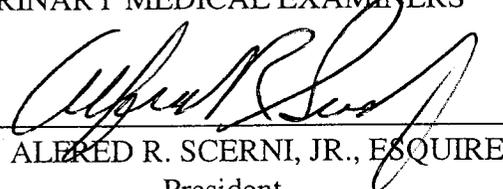
5. In the alternative to paying the civil penalty and the costs in full no later than forty (45) days from the entry of this Consent Order, as required by paragraphs three and four respectively, payment of the penalty and costs in the aggregate amount of **\$9,240.00** shall be made by the respondent in twenty-four (24) equal installments of

\$385.00 per month Payment shall be made by certified check or money order made payable to the Board of Veterinary Medical Examiners and shall be sent to Leslie G. Aronson, Executive Director, Board of Veterinary Medical Examiners, 124 Halsey Street, Sixth Floor, Post Office Box 45022, Newark, New Jersey 07101. Respondent shall make the first installment to the Board on July 15, 2004, in the amount of \$385.00. Subsequent monthly payments shall be made on the 15th of each month thereafter until the full amount of the penalty and costs is paid in full.

6. Failure to comply with any of the provisions of this Order or remit any and all payments timely as required by this Order will result in the filing of a certificate of debt and may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board.

NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

By: _____


ALFRED R. SCERNI, JR., ESQUIRE
President

I have read and understand the within Consent Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.


WALLY WASS, D.V.M.

Dated: 5/18/04