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

IN THE MATTER OF:	*	
KIMBERLY B. GALE, DVM	*	DOCKET NO. 18-04A
LICENSE NO. 7590	*	

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CONSENT AGREEMENT AND ORDER OF CENSURE

This Consent Agreement and Order of Censure ("Consent Agreement"), dated this 13th day of December, 2019, is between the Maryland State Board of Veterinary Medical Examiners ("Board") and Dr. Kimberly B. Gale, DVM ("Dr. Gale") (License No. 3231). At all times relevant to this Consent Agreement, Dr. Gale was licensed to practice veterinary medicine in Maryland, where she has been licensed since 2016. Dr. Gale has no prior disciplinary history with the Board. At all times relevant to this matter, Dr. Gale was an associate veterinarian at Animal Emergency Hospital ("Hospital") (current License No. 12-042), which was located at 807 Baltimore Pike, Bel Air, MD 21014. Since June of 2018, Hospital has been located at 722 Baltimore Pike, Bel Air, MD 21014.

On or about June 22, 2017, Marc Hemling ("Mr. Hemling") and Rebekah Rottman ("Ms. Rottman") took their 11-year-old female German Shepherd, "Xtra," to Northwind Animal Hospital ("NAH") for lethargy, vomiting, diarrhea and weakness in the hind limbs. Xtra was also in heat. NAH was not the normal veterinary practice for Mr. Hemling and Ms. Rottman (collectively "Owners"), but the Owners took Xtra there because an appointment with their regular veterinarian was not available until the next day. An associate veterinarian at NAH performed a physical examination of Xtra and completed diagnostic testing, including radiographs and blood work. The associate veterinarian at NAH suspected pancreatitis, pyometra (an infection in the uterus), or a liver infection as a possible cause of Xtra's issues. Xtra was sent home with amoxicillin, Metronidazole (for diarrhea), and Cerenia (for vomiting), as well as a copy of the records and blood work results from the visit.

On June 23, 2017, Xtra was still vomiting, despite the medications prescribed. Owners called NAH and the treating veterinarian recommended that the Owners take Xtra to an emergency hospital.

On the evening of June 23, 2017, the Owners took Xtra to Hospital where Dr. Gale initially was Xtra's treating veterinarian. When the Owners arrived at the Hospital with Xtra, Mr. Hemling provided front desk staff with paperwork from NAH, which included Xtra's blood work results from the previous day and a list of the medications prescribed by the veterinarian at NAH. Dr. Gale took Xtra into the treatment room for a physical examination and ultrasound fast scan.

Following the examination and ultrasound fast scan, Dr. Gale advised the Owners that Xtra's temperature was 105.4 degrees, that Xtra was in heat, and that Xtra's abdominal cavity was filled with watery, blood-tinged fluid. Dr. Gale brought a sample of the fluid to show the Owners. Dr. Gale suspected pancreatitis (inflammation of the pancreas) as the cause of Xtra's symptoms, or possibly a pyometra (infection of the uterus), although a pyometra was less likely. Dr. Gale told the Owners that she was unsure of the source of the fluid, but did not believe it was from a perforation in the large or small intestine or bowel. Dr. Gale wrote an estimate for hospitalization, intravenous ("IV") fluids, broad spectrum antibiotics, as well as a chem.17, Cpl and electrolytes, CBC, and radiographs. Dr. Gale promised to call the Owners with diagnostic results in about two hours. Dr. Gale also said that if initial testing did not provide definitive answers, the next step would be an ultrasound of the abdomen.

At 11:57 p.m. on June 23, 2017, Dr. Gale called Mr. Hemling to discuss the blood work results obtained. She advised that she had ruled out pyometra as a cause of symptoms. Dr. Gale stated that Xtra's radiographs were inconclusive, but Xtra's blood work indicated a small elevation in the white blood cell count. According to Mr. Hemling, Dr. Gale said nothing about Xtra's abnormal kidney values as evidenced by the blood tests, nor did she discuss Xtra's kidneys in any way. Dr. Gale said that she would arrange an ultrasound of Xtra's abdomen. Despite blood work results suggesting that Xtra could be experiencing kidney function issues, Dr. Gale's medical records do not show whether she recommended or considered performing a simple, fast, and inexpensive refractometer test to test urine specific gravity or offer any reasons why such a test should not be conducted. The refractometer test might have offered information helpful to evaluation of renal function by showing whether water was being excreted or conserved appropriately. Dr. Gale likewise did not document in the medical records her consideration of kidney function issues as part of her differential diagnoses. In addition, Dr. Gale did not document in her records details of her conversations with the owners, including the

possibility that Xtra might be experiencing kidney dysfunction. After the night of June 23, 2017, Xtra was in the care of other veterinarians at Hospital.

Xtra remained in the care of the Hospital until the afternoon of July 25, 2017, with her condition deteriorating. Finally, the Owners were advised that Xtra was suffering from renal failure, a diagnosis that surprised the Owners, based on their conversations with Dr. Gale and another veterinarian at the Hospital. Upon learning that Xtra was suffering from renal failure, Owners made the difficult decision to euthanize Xtra.

The Owners subsequently filed a complaint with the Board. After investigating this complaint, the Board filed charges against Dr. Gale in Docket No.18-04A. Dr. Gale, through counsel, requested a hearing. On August 22, 2019, Dr. Gale and her counsel appeared before the Board for a confidential resolution conference. Following the conference, the parties agreed to resolve this case under the terms and conditions set forth in this Consent Agreement. By freely entering into this Consent Agreement, Dr. Gale waives the right to a hearing on any charges.

Under State law, the Board is the licensing authority responsible for regulating the practice of veterinary medicine in this State, which includes filing disciplinary actions against veterinarians charged with violating provisions of the Maryland Veterinary Practice Act, Agriculture Article §§ 2-301 to 2-316, Annotated Code of Maryland and related regulations. As part of its authority, the Board "may refuse, suspend, or revoke any application or license, and censure or place on probation any licensee . . . if the veterinarian . . . [f]ails to comply with Board rules and regulations after receiving a license." Md. Code Ann., Agric. Art., § 2-310(8). In addition, the Board may impose a civil penalty of not more than $5,000 for a first offense or $10,000 for a second or subsequent offense in lieu of or in addition to suspending a veterinarian's license. Md. Code Ann., Agric. Art., § 2-310.1.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Dr. Gale, by signing this Consent Agreement, while generally and specifically denying liability in this case, agrees to this Consent Agreement, acknowledging that the Board has sufficient evidence to find, as fact, and conclude as a matter of law that she violated the Maryland Veterinary Practice Act and related regulations in connection with the care provided to Xtra. Based upon the facts set forth herein, the Board concludes that Dr. Gale violated COMAR 15.14.01.10 (Record Keeping) by not adequately documenting in her medical records

the following: the details of her differential diagnoses, her medical conclusions based on the diagnostic testing, and the specifics of her communications with the Owners.

Taking all the facts and circumstances into consideration, the Board concluded that the most reasonable and appropriate resolution in this matter is a Censure.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 13th day of ~~November~~ December, 2019, by the Maryland State Board of Veterinary Medical Examiners, **ORDERED** that Dr. Gale be, and hereby is, **CENSURED.**

Elizabeth Callahan, DVM
President
Maryland State Board of Veterinary Medical Examiners

CONSENT

I, Kimberly B. Gale, D.V.M., acknowledge that I have had an opportunity to consult with counsel before entering into this Consent Agreement. By this Consent, I hereby acknowledge the legal authority and jurisdiction of the Board over this matter to issue and enforce this Consent Agreement. In order to resolve this matter, I agree to accept and submit to the foregoing Consent Agreement, consisting of 4 pages. I sign this Consent Agreement without reservation as my voluntary act and deed after having had an opportunity to consult with counsel, and I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Agreement.

December 2, 2019
Date

Kimberly B. Gale, DVM

NOTARY

STATE OF Minnesota
CITY/COUTY OF Dakota

I HEREBY CERTIFY that on this 2nd of December, 2019 before me, a Notary Public of the City/County aforesaid, personally appeared Kimberly Gale, DVM, and made oath in due form of law that the foregoing Consent Agreement was his/her voluntary act and deed.

AS WITNESS my hand and notarial seal.

Kristin E Birkes
Notary Public
My commission expires: Jan 31, 2023

KRISTIN E BIRKES
Notary Public
Minnesota
My Comm. Exp. Jan. 31, 2023

RECEIVED
DEC 09 2019
BY: KD