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

IN THE MATTER OF:	*	
DENNIS G. FOSTER, D.V.M.	*	DOCKET NO. 05-054
LICENSE NO. 868	*	

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CONSENT AGREEMENT

This Consent Agreement, dated this 7th day of November, 2006, is between the State Board of Veterinary Medical Examiners ("Board") and Dennis Foster, D.V.M. ("Dr. Foster"), License No. 868. The Agreement concerns the charges that the Board filed against Dr. Foster alleging, among other things, that the care he provided "Kitty," a twelve-year old neutered Domestic Shorthair feline owned by Ms. Patricia Boblitz, fell below the minimal standard of care customary among veterinarians in this State, a violation of COMAR 15.14.01.07.

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 the provisions of the Veterinary Practice Act and regulations adopted thereunder. 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 [the Veterinary Practice Act and] Board rules and regulations after receiving a license" (Md. Code Ann., Agric. Art., §2-310(8)); and in lieu of, or in addition to, suspending a veterinarian's license, the Board may impose a civil penalty of not more than $5,000 (Md. Code Ann., Agric. Art., §2-310.1).

FINDINGS OF FACTS

Dr. Foster, by entering into and signing this document, acknowledges that the Board could produce evidence establishing the following Findings of Fact:

1. At all times relevant to the charges, Dr. Foster was, and is, a veterinarian licensed to practice veterinary medicine in the State of Maryland; and was the owner of the

Dundalk Animal Hospital, located at 7810 Wise Avenue, Baltimore, Maryland 21222.

2. On or about July 18, 2005, Dr. Foster accepted "Kitty," a twelve-year old neutered male Domestic Shorthair feline, owned by Ms. Patricia Boblitz, for emergency veterinary care.

3. Entries in the patient's record for this day state that Kitty had been losing weight for several weeks and was constipated. The entries also state that Kitty was "weak, dehydrated," had a temperature of 100°F., weighed 11.5 pounds, and that his pelvic outlet was swollen.

4. In his written response to Ms. Boblitz' complaint, Dr. Foster stated that "a ten inch rock-hard mass was palpated in the [cat's] colon." Dr. Foster, however, failed to record this finding in the patient record. In addition, Dr. Foster did not record the cat's pulse rate, respiratory rate, and other pertinent information that should have been noted describing the cat's physical condition at the beginning of custody.

5. Dr. Foster administered four enemas and fluids to Kitty. Dr. Foster, however, failed to note in the patient's record the volume and type of fluid that was used to administer the enemas. Similarly, Dr. Foster failed to record the volume and type of fluid that was used to administer fluid therapy to the cat.

6. In his written response to Ms. Boblitz's complaint, Dr. Foster stated that "the enemas were not successful in removing the colonic mass." Dr. Foster failed to record this information (that being, Kitty's progress and response to this treatment) in the patient's record.

7. Despite Kitty's age and condition at presentation, Dr. Foster performed none of the standard routine diagnostic tests indicated in these circumstances (*e.g.*, complete blood count, serum chemistries, and urinalysis) to help ascertain the underlying cause of the cat's constipation and existence of any complications due to the constipation (*e.g*, electrolyte abnormalities).

8. For July 19, 2005, the patient's record specifies that Kitty was "still constipated." To relieve the impaction, Dr. Foster determined that manual removal of the colonic mass

was necessary. To perform this procedure, Dr. Foster sedated Kitty, using Ketamine.

9. Ketamine is a controlled dangerous substance. It also is a rapid-acting agent. Its pharmacologic action is characterized by profound analgesia, immobilization, normal pharyngeal-laryngeal reflexes (which, because they remain active, may lead to and increase laryngospasm, bronchospasm, and coughing), mild cardiac stimulation, and respiratory depression. Ketamine also has the potential to increase respiratory secretions, which may cause the airway to become obstructed.

10. For these reasons, before administering Ketamine to an animal, standard veterinary care requires the veterinarian to examine the animal and evaluate its condition. In this case, given the cat's condition and the fact that Ketamine is excreted from the kidneys, the examination and evaluation called-for in these circumstances should also have included an assessment of the cat's renal function.

11. Dr. Foster, however, failed to perform such an evaluation. If he did, he did not note this in the patient's record.

12. On July 19, 2005, Dr. Foster also administered one enema to Kitty. Dr. Foster, however, again failed to note in the patient's record the volume and type of fluid used for the enema. Dr. Foster also administered fluids to Kitty. Although he did identify in the patient's record the type of fluid that was administered to Kitty (to wit: lactated ringers solution), Dr. Foster failed to record the volume administered.

13. Dr. Foster did note in the patient's record that he was able to remove 85% of the colonic mass.

14. Assuming the cat was being monitored after he performed this procedure, Dr. Foster failed to record Kitty's progress and response to the treatment in the patient's record. Excepting a notation (for what appears to be July 20, 2005) indicating the cat's temperature to be 100°F., the patient's record contains little, if any, information about the cat's condition. This is the case for both July 19, 2005 (when Dr. Foster was still present at the hospital) and July 20, 2005 (when the cat was discharged, and the day on which Dr. Foster's assistant - Dr. Terrence Maskol - also assumed care of this

animal). For example, in his written response to Ms. Boblitz' complaint, Dr. Foster notes that his assistant, Dr. Maskol, recommended on July 20, 2005, that Kitty remain hospitalized, but there is nothing in the patient's record explaining why he had made this recommendation.

CONCLUSIONS OF LAW

Based upon these Findings of Fact, the Board makes the following Conclusions of Law:

1. Dr. Foster's documentation of the care he provided "Kitty," a twelve-year old neutered Domestic Shorthair feline owned by Ms. Patricia Boblitz, did not comply with the record-keeping requirements for companion animals specified under COMAR 15.14.01.10, to wit:

(a) On or about July 18, 2005, after assuming the care of an emergency patient (to wit: Kitty, a twelve-year old neutered male Domestic Shorthair feline, owned by Ms. Patricia Boblitz), Dr. Foster failed to record certain pertinent information that should have been noted in the patient's record describing the cat's physical condition at the beginning of custody (*e.g.*, the cat's pulse rate, respiratory rate, and his finding, after palpating Kitty's abdomen, of a ten-inch rock-hard mass in the cat's colon), a violation of COMAR 15.14.01.10A(6) (requiring a veterinarian to record the animal's physical condition at the beginning of custody).

(b) On or about July 18, 2005, Dr. Foster administered fluids to Ms. Boblitz's cat, Kitty, but failed to record in the patient's record the type and volume of fluid administered, a violation of COMAR 15.14.01.10A(7) (requiring a veterinarian to record the treatment provided and, if medication is given, the amount and frequency).

(c) On or about July 18, 2005, after administering fluid therapy and four enemas to Ms. Boblitz's cat, Kitty, Dr. Foster failed to record the cat's progress and response to this treatment in the patient's record, a violation of COMAR 15.14.01.10A(8) (requiring a veterinarian to record the animal's progress).

(d) On or about July 19, 2005, to relieve the impaction (by manually removing

the colonic mass), Dr. Foster sedated Ms. Boblitz's cat, Kitty, using Ketamine, but failed to record the amount of Ketamine administered to the cat, a violation of COMAR 15.14.01.10A(9) (requiring a veterinarian to keep an anesthetic log).

(e) On or about July 19, 2005, Dr. Foster administered lactated ringers solution to Ms. Boblitz's cat, Kitty, but failed to record in the patient's record the volume of fluid administered, a violation of COMAR 15.14.01.10A(7) (requiring a veterinarian to record the treatment provided and if medication is given, the amount and frequency).

(f) On or about July 19, 2005, after sedating Ms. Boblitz's cat, Kitty, and manually removing the colonic mass and administering fluid therapy and an enema to the cat, Dr. Foster failed to record the cat's progress and response to this treatment in the patient's record, a violation of COMAR 15.14.01.10A(7) (requiring a veterinarian to record the treatment provided and if medication is given, the amount and frequency).

2. Dr. Foster's treatment of the subject animal fell below the minimal standard of care customary among veterinarians in this State, a violation of COMAR 15.14.01.07, to wit:

(a) Given Kitty's age and condition at presentation, in failing to perform the standard routine diagnostic tests indicated in these circumstances (*e.g.*, complete blood count, serum chemistries, and urinalysis) to help ascertain the underlying cause of the cat's constipation and existence of any complications due to the constipation (*e.g*, electrolyte abnormalities), Dr. Foster's care fell below the minimal standard required of a veterinarian in this State, a violation of COMAR 15.14.01.07.

(b) Given Ketamine's pharmacologic action and the fact that it is excreted from the kidneys, and given the age and condition of the cat (to wit: Kitty's stated weight loss, dehydration, anorexia, and weakness, conditions that result from renal failure), in failing to evaluate the cat before administering this drug, including assessing the cat's renal function, Dr. Foster's care fell below the minimal standard required of a veterinarian in this State, a violation of COMAR 15.14.01.07.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, finding that Dr. Foster violated the Veterinary Practice Act, it is this 16th day of November, 2006, by the State Board of Veterinary Medical Examiners, **ORDERED**:

1. That Dr. Foster is assessed a Civil Penalty in the amount of Two Thousand One Hundred Dollars ($2,100.00), and that he pay this penalty to the Board within sixty (60) days from the date of this Consent Agreement.

2. That Dr. Foster's license to practice veterinary medicine in this State is suspended for a period of one month, but this suspension is stayed; and

3. That Dr. Foster is placed on probation for a period of six months under the following terms and conditions:

(a) That he obey all laws and regulations governing the practice of veterinary medicine in this State; and

(b) That he pay the aforementioned Civil Penalty in a timely manner.

November 16, 2006
Date

Chris H. Runde, D.V.M.
President
State Board of Veterinary
Medical Examiners

CONSENT

I, Dennis G. Foster, D.V.M., acknowledge that I had an opportunity to consult with counsel before entering into and signing this document. By this Consent, I hereby acknowledge that the Board, by a preponderance of the evidence, could prove the Findings of Fact and Conclusions of Law contained herein. Accordingly, in order to resolve these matters, I agree to accept and submit to the foregoing Consent

Agreement, consisting of 6 pages (including this Consent Page).

I acknowledge the validity of this Consent Agreement as if entered after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the laws of the State of Maryland. I also affirm that I am waiving my right to appeal from this Consent Agreement.

I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Agreement.

I sign this Consent Agreement without reservation as my voluntary act and deed after having an opportunity to consult with counsel, and I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Agreement.

11/7/06
Date

Dennis G. Foster, D.V.M.
Respondent

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF BALTIMORE

I HEREBY CERTIFY that on this 7 day of NOVEMBER, 2006, before me, a Notary Public of the State and City/County aforesaid, personally appeared Dennis Foster, D.V.M., and made oath in due form of law that the foregoing Consent Agreement was his voluntary act and deed.

AS WITNESS my hand and notarial seal.

Thomas J. Green
Notary Public

My Commission expires:

5-1-07