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

IN THE MATTER OF:	*	
JAMES P. NOLTE, D.V.M. LICENSE NO. 2076	*	DOCKET NO. 05-035
	*	

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CONSENT AGREEMENT

This Consent Agreement, dated this 27th day of July, 2006, is between the State Board of Veterinary Medical Examiners ("Board") and James D. Nolte, D.V.M., License No. 2076. The Agreement concerns the charges that the Board filed against Dr. Nolte pertaining to his care of "Franklin," a one-year old mixed breed male feline owned by Ms. Heidi Glasgow.

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).

In this matter, the Board charged, among other things, that Dr. Nolte's treatment of Franklin did not conform to the minimal standards of care expected of a veterinarian in this State, a violation of COMAR 15.14.01.07.

FINDINGS OF FACTS

Dr. Nolte, 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. Nolte was, and is, a veterinarian licensed to practice veterinary medicine in the State of Maryland. He also was the owner of the Chesapeake Animal Clinic, located at 1727 Northwood Drive, Salisbury, MD 21801.

2. On or about the morning of August 11, 2005, Dr. Nolte undertook the care of Franklin, a one-year old mixed breed male feline owned by Ms. Heidi Glasgow (to wit: to administer shots to the cat and perform a neuter upon him). When she presented her cat to Dr. Nolte for this procedure, Ms. Glasgow was advised that Franklin would be ready for discharge as early as 4:00 p.m. that same day.

3. To perform the male neuter, Dr. Nolte anesthetized Franklin. In his initial response to the Board's request that he submit all records pertaining to this matter, Dr. Nolte did not submit any record showing: (a) the anesthetic agents used to anesthetize the cat, or (b) the findings of any examination he performed upon the cat (assuming he performed one). In a subsequent response to the Board, Dr. Nolte submitted an undated record stating that he had administered Ketamine (55 mg) and Xylazine (1 mg) IM to Franklin. In that undated record, Dr. Nolte also made the following general comments about the cat's health: "Cat good physical, alert, slightly undersized."

4. Ketamine is a controlled dangerous substance. It also is a rapid-acting agent. Its pharmacologic action is characterized by 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.

5. For these reasons, if a veterinarian chooses to use Ketamine (or, as in this case, a Ketamine/Xylazine combination) to anesthetize an animal, the veterinarian should: (a) examine the animal and evaluate its condition (that is, obtain the animal's history and physically examine it, *e.g.*, check the animal's temperature, pulse, respiration, weight,

etc.), and (b) monitor the animal while it is under the effects of this drug.

6. if Dr. Nolte did examine Franklin and evaluate his condition before anesthetizing him, he did not record his findings in the patient's records. The record does not contain the animal's weight, a short history of the animal's condition at the beginning of custody, or the animal's physical condition at the beginning of custody (*e.g.*, the animal's temperature, pulse, respiration, and other findings on physical examination).

7. Following surgery, while the cat remained under the effects of the anesthesia, Dr. Nolte left the facility, and thus, did not and could not properly monitor the animal until such time that the cat had sufficiently recovered from the anesthesia.

8. That same day, at approximately 5:15 p.m., after Ms. Glasgow arrived to take Franklin home, a clinic receptionist acted to discharge the cat to her. Dr. Nolte was not present and, for this reason, did not and could not examine Franklin to assess whether he had sufficiently recovered from the effects of the anesthetic agents and thus, ready to be discharged. Concerned for Franklin's health, having noted that her cat was laying flat on the bottom of the cat carrier when he was brought to her, Ms. Glasgow asked the receptionist if Franklin still was sedated. The receptionist responded that Franklin would be O.K. by the next day, providing no other instructions to Ms. Glasgow.

9. Later that same day, after observing that Franklin looked worse, Ms. Glasgow attempted to contact Dr. Nolte by telephone. Unable to reach him, she left a message for him. At approximately 9:00 p.m., Ms. Glasgow contacted Pet's ER, an emergency veterinary hospital located in Salisbury, Maryland, and was advised to bring Franklin to the facility immediately after noting that his gums were almost white and that it was difficult to see him breathing.

10. Ms. Glasgow presented Franklin to the Pet's ER at approximately 9:30 p.m., and was seen by Dr. Elizabeth Drewer. Among other notations, Dr. Drewer made the

following remarks in the patient's record concerning Franklin's condition when first presented: "General Appearance: quiet and lethargic, minimally responsive"; "Musculoskeletal: cannot walk - or even sit or lay sternally"; "Neurologic: very depressed and stuporous." Dr. Drewer also noted that Franklin's temperature at 9:30 p.m. was "too low to read on the thermometer." During the next several hours, Dr. Drewer used a bair hugger to "warm cat aggressively," and rechecked his temperature throughout the night. She noted that Franklin's temperature was 91.5° F. at 11:09 p.m.; 95.0° F. at 1:00 a.m.; 99.6° F. at 4:00 a.m.; and 100.4° F. at 5:00 a.m. For 6:39 a.m., Dr. Drewer noted that Franklin's temperature was 100.4° was 101.7° F. and that he "can be roused (with a lot of effort) to sit up and look around."

11. On or about the morning of August 12, 2005, Ms. Glasgow presented Franklin to the Salisbury Animal Hospital, where he was seen by Dr. Susan Hudson. On examination at presentation, Dr. Hudson noted that Franklin was "laterally recumbent and depressed." She also noted that by 11:00 a.m., Franklin was able to maintain sternal position, but had developed bradycardia (HR - 86), and that he experienced this condition throughout the day; and that by 4:30 p.m., Franklin was able to stand up on his own, but because he still was not normal, that he should be transferred to the Pet's ER for overnight care.

12. On or about the evening of August 12, 2005, Ms. Glasgow presented Franklin to the Pet's ER, and once more was seen by Dr. Elizabeth Drewer. Among other notations, Dr. Drewer noted that Franklin was "very sedate and lethargic - though improved from yesterday."

13. On or about the morning of August 13, 2005, Franklin was much improved, and Dr. Drewer determined that he could go home.

CONCLUSIONS OF LAW

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

of Law:

1. If Dr. Nolte evaluated Franklin before injecting the cat with the Ketamine/Xylazine drug combination, he did not record his findings in the patient's record (to wit: the record does not contain Franklin's weight, nor does it contain Franklin's history when he undertook the cat's care; nor does it state the animal's condition at the beginning of custody (*e.g.*, it does not state the cat's temperature, pulse, respiration, and other findings on physical examination), a violation of COMAR 15.14.01.10.

2. In failing to monitor Franklin post-surgically until such time that the cat had sufficiently recovered from the Ketamine/Xylazine drug combination that he had administered to this animal, Dr. Nolte's treatment did not conform to the minimal standards of care expected of a veterinarian in this State, a violation of COMAR 15.14.01.07.

3. In failing to assess (or having someone competently to assess) whether Franklin had sufficiently recovered from the Ketamine/Xylazine drug combination that he had administered to the animal and, thus, ready to be discharged to the owner, before he discharged the cat (or allowed the cat to be discharged), Dr. Nolte's treatment of this animal did not conform to the minimal standards of care expected 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. Nolte violated the Veterinary Practice Act, it is this 27th day of July, 2006, by the State Board of Veterinary Medical Examiners, **ORDERED**:

1.) That Dr. Nolte is assessed a Civil Penalty in the amount of Nine Hundred Dollars ($900.00);

2.) That Dr. Nolte's license to practice veterinary medicine in this State is suspended for a period of two weeks, but that this suspension is stayed; and

3.) That Dr. Deal 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;

b.) That he pay the aforementioned civil penalty within sixty (60) days from the date of this Consent Agreement; and

c.) That he read all laws and regulations governing the practice of veterinary medicine in this State.

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

CONSENT

I, James D. Nolte, 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.

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.

7/19/06
Date

James D. Nolte, D.V.M.
Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF Wicomico

I HEREBY CERTIFY that on this 19th day of July, 2006, before me, a Notary Public of the State and City/County aforesaid, personally appeared James D. Nolte, 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.

Betty M Anderson
Notary Public

My Commission Expires: 6/1/10