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

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| IN THE MATTER OF: | * | |
| MELANIE KLEIN, D.V.M. | * | DOCKET NO. 18-67 |
| LICENSE NO. 6955 | * | |

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## CIVIL PENALTY FINAL ORDER

This Civil Penalty Final Order ("Order"), dated this 14th day of August, 2019, is issued by the State Board of Veterinary Medical Examiners ("SBVME" or "Board") to reflect the resolution of the above-referenced proceeding against Melanie Klein, D.V.M. ("Dr. Klein"), License No. 6955. On or about June 28, 2019, the Board issued charges in Docket No. 18-67 alleging that Dr. Klein violated certain provisions of the Veterinary Practice Act, Agriculture Article, §§ 2-301 – 2-316, Annotated Code of Maryland, and related Code of Maryland Regulations ("COMAR") 15.14.01 – 15.14.17..

In an email received by Board counsel on July 9, 2019, Dr. Klein notified the Board that she wishes to waive her right to a hearing and pay the civil penalty proposed. Subsequent discussions involving counsel for the Board and counsel for Dr. Klein confirmed Dr. Klein's waiver and agreement to resolve this case under the terms of this Order.

Under Maryland law, the SBVME 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 related COMAR regulations adopted pursuant to this law. As part of its authority, the SBVME "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). The Board may also 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 or revoking a veterinarian's license, respectively.

Md. Code Ann., Agric. Art., § 2-310.1 In setting the amount of a civil penalty, the Board shall consider the severity of the violation, the good faith of the violator, and any history of prior violations, as well as the Board's regulatory civil penalty standards. Md. Code Ann., State Gov't Art. § 10-1001(b); COMAR 15.14.11 (Civil Penalty Standards for Veterinarians).

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Melanie Klein, DVM, License No. 6955, having had the opportunity to consult with counsel, has voluntarily agreed to waive the right to a hearing in this case and to entry of this Order, to which she consented before it was issued by the Board. While generally and specifically denying liability, Dr. Klein acknowledges that the SBVME has sufficient evidence to find, as fact, and to conclude as a matter of law that she violated COMAR 15.14.01.01.10-1 (Client Consent for Companion Animals and Hospitalized Animals) and COMAR 15.14.01.10A (Record Keeping) as set forth herein.

1. At all times relevant to these charges, Dr. Klein was a veterinarian licensed to practice in the State of Maryland, where she has been licensed since 2012. Dr. Klein has no prior disciplinary history with the Board.

2. This case involves treatment provided by Dr. Klein to "Tony," an eleven-year-old neutered male cat owned by Joyce Powell ("Owner" or "Ms. Powell").

3. On the morning of May 18, 2018, the Owner brought Tony to the hospital where Dr. Klein is employed ("Hospital"), as a new patient. Tony's owner had contacted the Hospital to request this examination because Tony had not been eating normally, had been quieter than usual, and appeared to be experiencing discomfort. Dr. Klein became Tony's treating veterinarian at the Hospital.

4. After examining Tony, Dr. Klein recommended that he remain at the Hospital so that diagnostics, including drawing of blood samples, could be performed. Dr. Klein sedated Tony for the blood draws by administering Acepromazine, because Tony exhibited fractious behavior. The diagnostic testing yielded normal results.

5. COMAR 15.14.01.10-1 (Client Consent for Companion Animals and Hospitalized Animals) requires that for a non-emergency presentation of a companion animal, a veterinarian shall inform the

client in a manner that is understandable by a reasonable person of the diagnostic and treatment plan. In addition, the veterinarian shall ". . . provide a written estimate of the charges for veterinary services, and obtain the client's signature indicating acknowledgement and approval, before a veterinarian performs . . . surgery" or hospitalizes an animal. COMAR 15.14.01.10-1A. A "hospitalization" within the meaning of this regulation includes ". . . the confinement of a patient in a veterinary hospital . . . for purposes of performing . . . diagnostics." COMAR 15.14.01.03(B)(7). Dr. Klein violated COMAR 15.10.01.10-1 by failing to provide a written estimate of the charges and obtaining the client's signature indicating acknowledgement and approval prior to hospitalizing Tony, a companion animal. Dr. Klein did receive oral consent to treat Tony.

6. COMAR 15.14.01.10A governs record keeping for companion animals, and states that for each animal treated, a veterinarian shall prepare a legibly written record that accurately and thoroughly reflects the treatment provided. Among other things, the record must contain a statement of the amount in milligrams and volume and concentration of substance used, as well as the frequency and route of administration. *See* COMAR 15.14.01.10A(8). Dr. Klein violated 15.14.01.10A(8) by failing to indicate the concentration of Acepromazine administered to Tony.

7. There has been no finding that the violations described herein caused any negative consequences to the health and well-being of Tony.

Taking all facts and circumstances into consideration, including the nature of the violations, the circumstances involved in the incident, the veterinarian's lack of disciplinary history with the Board, and her good faith efforts to resolve this matter promptly, the Board concluded that the most reasonable and appropriate resolution includes the sanctions set forth below.

## ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 14th day of August 2019, by the State Board of Veterinary Medical Examiners, ORDERED that for violation of COMAR 15.14.01.01.10-1 (Client Consent for Companion Animals and Hospitalized

Animals), Dr. Klein shall pay a civil penalty of $600 and for violation of COMAR 15.14.01.10A(8) (Record Keeping), Dr. Klein shall pay a civil penalty of $300.00, for a total of $900. The Board acknowledges full payment of the civil penalty (900.00) by check received on July 29, 2019.

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland, this 14th day of August, 2019.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

Heather Hendler, V.M.D.
Vice-President
State Board of Veterinary Medical Examiners
Maryland Department of Agriculture