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

IN THE MATTER OF:	*	
RYAN M. GALLAGHER, D.V.M. LICENSE NO. 6820	*	DOCKET NO. 19-47
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CIVIL PENALTY FINAL ORDER

This Civil Penalty Final Order ("Order"), dated this 28th day of September, 2020, is entered by the State Board of Veterinary Medical Examiners ("SBVME" or "Board") in this case involving Ryan M. Gallagher, D.V.M. ("Dr. Gallagher"), License No. 6820. This Order resolves the charge filed by the SBVME on or about July 16, 2020 in Docket No. 19-47 alleging that Dr. Gallagher violated the Veterinary Practice Act and related Code of Maryland Regulations ("COMAR") as set forth herein.

By email to Board counsel on August 18, 2020, Dr. Gallagher notified the Board of his intention to waive his right to a hearing in this case, to accept the charges, and to pay the civil penalty proposed. By agreeing to entry of this Order, Dr. Gallagher waives the right to a hearing on the charging document in Docket Number 19-47 and agrees to the resolution set forth herein.

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

Ryan M. Gallagher, D.V.M., by agreeing to this Order, acknowledges that the SBVME has sufficient evidence to find, as fact, and to conclude as a matter of law that Dr. Gallagher violated COMAR 15.14.01.07A (Professional Judgment and Practice), as follows:

1. Dr. Gallagher is a veterinarian licensed to practice in the State of Maryland, where he has been licensed since 2011. Dr. Gallagher was, at the time of the events described herein, a veterinarian at Veterinary Orthopedic & Sports Medicine Group ("Hospital") (current Hospital License No. 13-000312), located at 10975 Guilford Road, Annapolis Junction, MD 20701. Dr. Gallagher has no prior disciplinary history with the Board.

2. On February 6, 2018, Sandra Neverett ("Owner" or "Ms. Neverett") took Kirby, her 11-year-old Bichon, to the Hospital for surgery on Kirby's right hind limb. The surgery was successful, and Kirby was released.

3. About five months later, Kirby began yelping and biting at his right hind limb. Ms. Neverett scheduled an appointment and returned with Kirby to the Hospital on July 27, 2018. After an examination by another veterinarian, Kirby was referred to the Hospital's neurologist, Dr. Gallagher.

4. Dr. Gallagher first saw Kirby on August 9, 2018. Following a physical examination of Kirby, Dr. Gallagher requested diagnostic testing, including an MRI and a spinal tap.

5. After these tests had been performed and the results returned, Dr. Gallagher advised Ms. Neverett that Kirby's pain was likely associated with either cervical disc compression or an autoimmune disease. Dr. Gallagher prescribed prednisone, which helped for a short time. However, the issues did not resolve fully.

6. Over the next three months, Ms. Neverett had several telephone conversations with Dr. Gallagher regarding Kirby's continuing complaints. However, she received no new insight as to what could be causing Kirby's discomfort.

7. On November 12, 2018, Ms. Neverett took Kirby to Veterinary Specialty Center of Delaware ("VSCD") for a second opinion. Dr. Carrie Goldkamp, Kirby's attending veterinarian at VSCD, requested Kirby's medical records from the Hospital, including the record prepared by Dr. Gallagher and the diagnostic testing he ordered. These records were sent to Dr. Goldkamp, who reviewed them.

8. After her review of the records, Dr. Goldkamp informed Ms. Neverett that the MRI report for the MRI that had been taken in August 2018 as per Dr. Gallagher's order noted moderate to severe right and mild left medial retropharyngeal lymphadenopathy, possibly caused by neoplasia (abnormal growth of tissue).

9. Based on the findings of the August MRI report, Dr. Goldkamp aspirated Kirby's pharyngeal lymph nodes. The cytology findings revealed the spread of carcinoma to multiple lymph nodes in Kirby's neck. Dr. Goldkamp prescribed a palliative treatment plan for Kirby.

10. Ms. Neverett subsequently filed a complaint with the Board arising from Dr. Gallagher's failure to inform her about the MRI findings suggesting irregularities in the lymph nodes or to take action based on those findings. Dr. Gallagher never provided Ms. Neverett with the MRI report, so she learned about its contents for the first time during Kirby's examination at VSCD.

11. Ms. Neverett believes that if Kirby's cancer been diagnosed in August rather than November, it may have been possible to remove the cancer before it metastasized or to keep Kirby more comfortable beginning in August.

12. The Board opened a file and conducted an investigation, which included review of the medical records. The Board concluded that Dr. Gallagher provided substandard care to Kirby by failing to read, share, or act upon the MRI report.

13. COMAR 15.14.01.07A (Professional Judgment and Practice) provides that: "[a] veterinarian, when caring for and treating a patient, shall conform to those minimum standards of care and treatment which are customary among veterinarians in this State." In addition, COMAR 15.14.01.07B requires a specialist to conform to the minimum standards of care and treatment customary among specialist. Dr. Gallagher failed to satisfy the applicable standard in his care and treatment of Kirby by failing to read thoroughly the report

for the MRI, failing to inform Ms. Neverett about the contents of the MRI report, including its significant findings, and failing to act upon the MRI report. While earlier action might not have altered the outcome, the standard of care required Dr. Gallagher to read the report, make note of its findings, and to discuss the findings with the Owners to enable her to make informed decisions about Kirby's care.

Taking the facts and circumstances into consideration, including the nature of the violation, Dr. Gallagher's lack of disciplinary history, and his good faith efforts to resolve this matter promptly, the Board concluded that the most reasonable and appropriate resolution includes the measures set forth below.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 28th day of September, 2020, by the State Board of Veterinary Medical Examiners, ORDERED that for the violation of COMAR 15.14.01.07A (Professional Judgment and Practice), Dr. Gallagher is assessed a civil penalty of $1,000 payable within thirty (30) days from the date of this Civil Penalty Final Order to the "Maryland Department of Agriculture" with the notation "SBVME – 19-47." The Board acknowledges full payment of the civil penalty by check received on September 8, 2020.

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland, this 28th day of September, 2020.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

Peter Radue /CDS

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Peter Radue, VMD
State Board of Veterinary Medical Examiners
Maryland Department of Agriculture
50 Harry S. Truman Parkway, Room 102
Annapolis, Maryland 21401
Telephone: 410.841.5862