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

IN THE MATTER OF:	*	
KEVIN DOHERTY, VMD LICENSE NO. 3657	*	DOCKET NO. 20-39
FORK VETERINARY HOSPITAL, INC. HOSPITAL LICENSE NO. 03-013	*	

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CIVIL PENALTY FINAL ORDER

This Civil Penalty Final Order ("Order"), dated this 28th day of February,2020, is issued by the Maryland State Board of Veterinary Medical Examiners ("Board" or "SBVME") against Dr. Kevin Doherty, VMS, License No. 3657. This Order confirms the intention of Dr. Doherty to waive the right to contest the charge filed by the Board on or about February 6, 2020 in Docket No. 20-39, alleging that Dr. Doherty violated the Maryland Veterinary Practice Act, Agriculture Article, Sections 2-301 - 2-316, Annotated Code of Maryland, ("Veterinary Practice Act") and related Code of Maryland Regulations ("COMAR") 15.14.01 – 15.14.17. Specifically, the Board alleged that Dr. Doherty violated COMAR 15.14.01.12-3C by failing to keep expired medications separate and apart from unexpired medications in his veterinary hospital. By letter to the Board dated February 27, 2020, Dr. Doherty notified the Board of his decision not to contest the charge, to waive his right to a hearing, and to pay the civil penalty proposed.

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 Veterinary Practice Act and related COMAR 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 or veterinary practitioner . . . [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

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 the 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

Kevin Doherty, DVM, License No. 3657 ("Dr. Doherty"), after having the opportunity to seek advice of legal counsel, has agreed to waive his right to a hearing and to pay the $1000.00 civil penalty assessed by the Board in Docket No.20-39. Dr. Doherty acknowledges that the Board has sufficient evidence to find, as fact, and conclude as a matter of law that he violated Agriculture Article Section 2-310(8), Md. Code Ann., and related regulation, specifically COMAR 15.14.01.12-3C, as follows:

1. At all times relevant to this charge, Dr. Doherty was a veterinarian licensed to practice in Maryland, where he has been licensed since 1989. Dr. Doherty has a prior disciplinary history with the Board involving expired medications. In Docket No. 18-41, Dr. Doherty entered into a Consent Agreement (signed on March 20, 2018), to resolve charges arising from a December 2017 inspection of the hospital he owns and at which he serves as responsible veterinarian during which at least 14 expired drugs and 28 single doses of expired feline leukemia vaccines were found in the working stock. In addition, during follow up inspection on Jan 10, 2018, three more expired medications were found in the hospital's working stock. As a result of the violations found in Docket No. 18-41, Dr. Doherty paid a civil penalty of $500.

2. At the time of the events described in this charge, Dr. Doherty was the owner and responsible veterinarian of a veterinary hospital known as Fork Veterinary Hospital, Inc. ("Hospital"), located at 12546 Harford Road, Fork, Maryland 21051 (Hospital License No. 03-013).

3. During a routine inspection of the Hospital on December 4, 2019, Board Inspector Ellen James ("Ms. James") found at least 13 expired medications kept with unexpired medications in Hospital's working stock. Ms. James instructed Hospital staff to remove all expired medications and to check expiration dates once a month. Ms. James also issued a COMAR Violation Sheet, which was signed by Dr. Doherty.

4. COMAR 15.14.01.12-3A prohibits veterinarians from administering expired medications to an animal and COMAR 15.14.01.12-3C requires that expired medications be packaged and kept separate and apart from unexpired medications until disposal of such medications.

Taking all the facts and circumstances into consideration, including the nature of the violation, the veterinarian's prior disciplinary history with the Board, and the veterinarian's good faith effort to resolve this matter promptly, the Board concluded that the most reasonable and appropriate resolution in this matter was a civil penalty only.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 28th day of February, 2020, by the Maryland State Board of Veterinary Medical Examiners, **ORDERED** that for the violation of Agriculture Article, § 2-310(8), Md. Code Ann., of the Veterinary Practice Act, and COMAR 15.14.01.12-3C, Dr. Kevin Doherty is assessed a civil penalty in the amount of $1000.00.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

Elizabeth Callahan, DVM
President