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

IN THE MATTER OF THE COMPLAINT OF *

THE STATE BOARD OF VETERINARY *

MEDICAL EXAMINERS AGAINST *

KIRK W. FORREST, D.V.M. * DOCKET NO. 00-007

LICENSE NO. 3045 *

* * * * * * * * * * * * *

CONSENT ORDER

The State Board of Veterinary Medical Examiners ("Board") charged that Kirk W. Forrest, D.V.M., License No. 3045, violated certain laws and regulations governing the practice of veterinary medicine in this State (the "Veterinary Practice Act"). Under the Veterinary Practice Act, 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 Board ... 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 $5000 (Md. Code Ann., Agric. Art., §2-310.1).

More specifically, the Board charged Dr. Forrest as follows:

1. Dr. Forrest anesthetized an animal [to wit: Cassy, a 4-year old Rottweiler owned by Mr. Steven Townsend] to perform a dental procedure even though: (a) the animal was an extremely poor anesthetic candidate because of severe renal disease, and (b) he had been advised by a specialist that he consulted that the animal should not be anesthetized because of this condition. In so doing, Dr. Forrest failed to conform to the minimum standards of care and treatment customary among veterinarians in this State, a violation of COMAR 15.14.01.07.

2. Dr. Forrest did not adequately inform the owner of the risks that anesthesia posed to Cassy because of the dog's severe renal disease. In so doing, Dr. Forrest failed to conduct himself in relation to the patient and owner so as to merit their full confidence and respect, a violation of COMAR 15.14.01.04.

3. In a glaring deviation from the acceptable standards of veterinary care, Dr. Forrest anesthetized an animal to perform a dental procedure even though: (a)

the animal was an extremely poor anesthetic candidate because of severe renal disease, and (b) he had been advised by a specialist that he consulted that the animal should not be anesthetized because of this condition. In so doing, Dr. Forrest was grossly negligent, a violation of Md. Agric. Art., §2-310(9).

On August 29, 2000, Dr. Forrest received notice of these charges by certified mail. Shortly thereafter, Dr. Forrest contacted the Board to discuss resolving this matter. As a result of negotiations between (1) the Administrative Prosecutor, Thomas F. Filbert, Assistant Attorney General, and (2) Dr. Forrest, Dr. Forrest enters into this Consent Order according to the terms set forth below:

In exchange for Dr. Forrest's admission to violating COMAR 15.14.01.04 and .07, the Board shall dismiss the remaining charge against him alleging that he was grossly negligent. Additionally, the Board agrees to sanction Dr. Forrest as follows:

1. Dr. Forrest's license to practice veterinary medicine in this State will be suspended for a period of two weeks, but the Board will stay this suspension;

2. Dr. Forrest shall pay a civil penalty in the amount of $1000, but the Board shall stay payment of $200 of this amount; and

3. Dr. Forrest will be placed on probation for a period of one year under the following terms and conditions:
   a. He shall pay the civil penalty in a timely manner; and
   b. He shall obey all laws and regulations governing the practice of veterinary medicine in this State.

FINDINGS OF FACT

Pursuant to the stipulation entered into between the Administrative Prosecutor and Dr. Forrest, the Board accepts the following statement of facts:

A. Since 1988, Dr. Forrest has been licensed to practice veterinary medicine in Maryland, and has never been disciplined by the Board.

B. On or about October 20, 1999, Dr. Forrest assumed the care of "Cassy," a 4-year old Rottweiler owned by Mr. Steven Townsend, whose chief complaint on presentation was lack of appetite, chronic vomiting, and lethargy. On physical examination of Cassy, Dr. Forrest noted that the dog had loose teeth, gingivitis, and tartar buildup (but not broken teeth, tumors, or ulcers), and recommended teeth cleaning. Dr. Forrest also noted a heart murmur. Dr. Forrest ordered a blood chemistry, which showed the following: BUN 155; CREAT. 7.7; PHOS.

13.0; CA. 11.8 (ALB 2.7); and AMYLASE 1277. In addition, Dr. Forrest ordered a urinalysis, an echocardiogram, and chest x-rays; and placed Cassy on a low protein diet.

C. Dr. Forrest also consulted Larry P. Tilley, D.V.M., Diplomate, American College of Veterinary Internal Medicine, and provided him a complete cardiopulmonary database, including ultrasound images, of Cassy.

D. In his October 21, 1999 report to Dr. Forrest, Dr. Tilley noted, among other things, the following:

> Of concern at this time is the [dog's] past history of cardiac murmur and the need for anesthesia.... Of major concern is the blood profile showing renal failure....
>
> 4. IV fluid would be indicated because of renal failure. **No anesthesia should be done because of the severe renal disease**....
> 5. An abdominal ultrasound study would also be indicated to evaluate kidney structure. A congenital renal abnormality could very well be present. The prognosis for this case is quite guarded.... (Emphasis supplied).

E. After receiving Dr. Tilley's report, Dr. Forrest consulted Marc Papageorges, D.V.M., M.S., PhD., Diplomate, American College of Radiology, and asked that he review thirty-one abdominal images taken of Cassy, including views of the dog's kidneys and urinary bladder.

F. In his October 25, 1999 report to Dr. Forrest, Dr. Papageorges noted under "History, Chief Complaint, Clinical findings," the following:

> History of heart murmur from first exam. Has been PU/PD last few months. Grade II murmur. Very thin. Enamel on teeth pitted and stained. Moderate tartar.....

After reviewing the thirty-one images that were submitted to him, Dr. Papageorges concluded:

> Combined with the [dog's] history, these findings are most compatible with a diagnosis of bilateral renal hypoplasia or atrophy secondary to an inherited renal disease (most likely familial nephropathy). The prognosis appears poor. A renal transplant should be considered....

G. On November 15, 1999, Dr. Forrest re-examined Cassy. On that date, Dr. Forrest ordered a PCV and another blood chemistry. The dog's PCV on that

date was 22. The dog's blood chemistry findings were as follows: BUN 98; CREAT. 7.9; PHOS. 9.4; CA. 12.7 (ALB 2.9). Dr. Forrest again noted that the dog had loose teeth, gingivitis, and tartar buildup (but not broken teeth, tumors, or ulcers), and recommended teeth cleaning. Dr. Forrest was concerned that Cassy's dental disease would affect her long term well-being, and if this problem was not addressed, it would ultimately be her demise. Dr. Forrest recommended that Mr. Townsend call in 3 weeks to schedule a dental check-up.

H. On December 9, 1999, Dr. Forrest performed dental surgery upon Cassy, extracting 6 teeth (all upper incisors). Before undertaking this procedure, Dr. Forrest ordered another PCV; but he did not order another blood chemistry. The dog's PCV on this date was 18, even lower than it had been on November 15, 1999, when he first performed this test. To perform the dental procedure, Dr. Forrest anesthetized Cassy, administering the anesthesia by injection (Diazepam) and by inhalation. Dr. Forrest did not adequately inform Mr. Townsend, however, of the risks that anesthesia posed to Cassy because of the dog's severe renal disease; and if Dr. Forrest had adequately informed Mr. Townsend, Mr. Townsend would not have consented to Dr. Forrest performing this procedure. Later that day, Dr. Forrest discharged Cassy.

I. On December 11, 1999, at approximately 8:30 a.m., Cassy was returned to Dr. Forrest's hospital with the chief complaint of vomiting, dehydration, lethargy, and labored breathing. A blood chemistry was ordered, which showed the following: BUN 130; CREAT. 13.6; PHOS. 16.10; GLU 210.6; TBILI 1.84; and AMYLASE 1674. Cassy was given a blood transfusion. Later that evening, Cassy was found dead in her cage.

CONCLUSIONS OF LAW

Based on Dr. Forrest's admission and the foregoing Findings of Fact, the Board concludes as a matter of law that Dr. Forrest is guilty of violating COMAR 15.14.01.04 and .07, as charged.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, finding Dr. Forrest guilty of violating COMAR 15.14.01.04 and .07, it is this 28th of September, 2000, by the State Board of Veterinary Medical Examiners:

ORDERED that Dr. Forrest's license to practice veterinary medicine in this State is immediately **SUSPENDED** for a period of two weeks, but that this suspension is stayed;

ORDERED that Dr. Forrest pay a **CIVIL PENALTY** in the amount of one thousand dollars ($1000), but that the payment of two hundred dollars ($200) of this amount is stayed;

ORDERED that Dr. Forrest is placed on **PROBATION** for a period of one year, under the following terms and conditions:

a. Dr. Forrest shall obey all laws and regulations governing the practice of veterinary medicine in this State; and

b. Dr. Forrest shall pay the civil penalty within 30 days from the date of this Order; and

ORDERED that remaining charge against Dr. Forrest, alleging gross negligence, is dismissed.

9/28/2000
Date

Donald M. Carman, D.V.M.
President
State Board of Veterinary
Medical Examiners

CONSENT

I, Kirk W. Forrest, 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 Order, consisting of six (6) pages.

I acknowledge the validity of this Consent Order 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 affirm that I am waiving my right to appeal from this Consent Order.

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

I sign this Consent Order without reservation as my voluntary act and deed after consulting with counsel, and I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

9-21-00
Date

Kirk W. Forrest, D.V.M.
Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF Calvert

I HEREBY CERTIFY that on this 21 day of September, 2000, before me, a Notary Public of the State and City/County aforesaid, personally appeared Kirk W. Forrest, D.V.M., and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS my hand and notarial seal.

Nancy A. Colyer, Notary Public
Calvert County
State of Maryland
My Commission Expires May 1, 2003

Notary Public

My Commission Expires: