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

IN THE MATTER OF:	*	
KENNETH FOX, DVM LICENSE NO. 4835	*	DOCKET NO. 21-51
	*	
WALDORF EMERGENCY CARE HOSPITAL LICENSE NO. 08-00223	*	

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CIVIL PENALTY FINAL ORDER

This Civil Penalty Final Order ("Order"), dated this 9th day of July, 2021, is issued by the Maryland State Board of Veterinary Medical Examiners ("Board" or "SBVME") against Kenneth Fox, DVM ("Dr. Fox"), License No. 4835. This Order confirms the intention of Dr. Fox to resolve Docket No. 21-51 without issuance of formal charges. By correspondence received by the Board on July 7, 2021, Dr. Fox agreed to the terms and conditions set forth in this Civil Penalty Final Order, including the findings that he 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.

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

Kenneth Fox, DVM, License No. 4835, after having the opportunity to seek advice of legal counsel and having been informed of his due process rights, including the right to a hearing in this matter, has agreed to resolve this case voluntarily without the issuance of formal charges and agreed to pay the $800 civil penalty proposed. In so doing, Dr. Fox 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 COMAR 15.14.01.12-3C, as follows:

1. At all times relevant to these charges, Dr. Fox was a veterinarian licensed to practice in Maryland, where he has been licensed since 1997. Dr. Fox is the owner and responsible veterinarian at a veterinary hospital known as Waldorf Emergency Care ("Hospital") located at 3485 Rockefeller Court, Waldorf, MD 20602 (License No. 08-00223).

2. Dr. Fox has one prior disciplinary action with the Board, which was entered in 2006 (Docket No. 06-17), and involved operation of another veterinary facility without a current license.

3. On January 19, 2021, during an annual inspection of the Hospital, Board Inspector Pegeen Morgan ("Inspector Morgan"), found a large number of expired medications in the Hospital's working stock of medications. These including a bottle of Phenobarbital (65mg/ml) that expired in December of 2019, 40 bottles of Potassium Chloride injectable that expired May 1, 2020, and 40 bottles of Tobramycin solution (.30%) that expired in May of 2020.

4. A Veterinary Hospital Inspection Report reflecting Inspector Morgan's findings on January 19, 2021 was prepared and given to Dr. Fox. Inspector Morgan also issued a COMAR Violation Sheet, notifying Dr. Fox that he was in violation of the Board's expired medication regulations.

5. On February 3, 2021, Inspector Morgan conducted a follow-up inspection of the Hospital. During that inspection, and despite the previous instructions to remove all expired medications from the Hospital's working stock, Inspector Morgan found three additional expired medications.

6. 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. Dr. Fox violated this regulation by having expired medications in his Hospital during two Board inspections.

Taking all the facts and circumstances into consideration, including the nature of the violation, the veterinarian's 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 9th day of July, 2021 by the Maryland State Board of Veterinary Medical Examiners, **ORDERED** that for the violation of Agriculture Article, § 2-310(8), Md. Code Ann., and COMAR 15.14.01.12-3C, Kenneth Fox, DVM is assessed a civil penalty in the amount of $800.00. The Board acknowledges receipt of the full civil penalty on July 7, 2021.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

Elizabeth Callahan/vao
Elizabeth Callahan, DVM
President