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

IN THE MATTER OF: *

JUDITH NABOZNY, DVM *
LICENSE NO. 3945 DOCKET NO. 20-81

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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order ("Consent Agreement"), dated this 29th day of September 2021, is between the State Board of Veterinary Medical Examiners ("SBVME" or "Board") and Judith Nabozny, DVM ("Dr. Nabozny"), License No. 3945. This Consent Agreement resolves the disciplinary matter assigned Docket No. 20-81, alleging that Dr. Nabozny violated the Veterinary Practice Act, Md. Code Ann., Agric. §§ 2-301 – 2-316, Annotated Code of Maryland, and related Code of Maryland Regulations ("COMAR") 15.14.01 – 15.14.17 as set forth herein.

On June 9, 2021, Dr. Nabozny, through legal counsel, notified Board counsel of her decision to resolve this case voluntarily without the issuance of formal charges. Subsequently, Dr. Nabozny agreed to the terms and conditions reflected in this Consent Agreement. By signing this Consent Agreement, Dr. Nabozny agrees to waive her right to a hearing on the charges in Docket No. 20-81 and further agrees to the terms and conditions of this Consent Agreement.

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. 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. § 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. § 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 civil penalty standards. Md. Code Ann., State Gov't § 10-1001(b); COMAR 15.14.11 (Civil Penalty Standards for Veterinarians).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Judith Nabozny, DVM, License Number 3945, by entering into and signing this Consent Agreement, having had the opportunity to seek the advice of counsel, agrees to the provisions of this Consent Agreement, acknowledging that the SBVME has sufficient evidence to find, as fact, and to conclude as a matter of law that Dr. Nabozny violated COMAR 15.14.01.10A (Record Keeping) and COMAR 15.14.05.2B(5) (Health Certificate and Rabies Certificate for Companion Animals) as set forth herein:

1. Dr. Nabozny is a veterinarian licensed to practice in the State of Maryland since 1991. Dr. Nabozny was, at the time of the incidents described herein, a veterinarian at Main Street Veterinary Hospital ("Hospital")(License No. 03-00291), located at 11617 Reisterstown Road, Baltimore, MD 21136.

2. This case involves care provided by Dr. Nabozny to Elsa (formerly Jada), an approximately 13-month-old English bulldog bred by Greek Gods Kennel in Maryland. Greek Gods Kennel is a breeding operation owned by Bryan Terry ("Mr. Terry") with which Ricky Davis ("Mr. Davis") is associated. Mr. Davis was Elsa's original owner.

3. On February 28, 2020, Mr. Davis took Elsa to the hospital, where Dr. Nabozny examined her. The medical record prepared by Dr. Nabozny documented that upon examination, Dr. Nabozny identified a grade 3/6 heart murmur. Dr. Nabozny further documented that she recommended a cardiology appointment. According to Dr. Nabozny, she discussed the heart murmur with Mr. Davis, and she further recommended that he take Elsa to a cardiologist and disclose the condition to any purchaser. These discussions, however, were not recorded in the original record prepared near the time of the examination.

4. Following the examination on February 28, 2020, Dr. Nabozny also prepared and signed the Hospital's standard health certificate, in which she indicated that Elsa was in overall good health. Dr. Nabozy did not believe the murmur was impacting Elsa's growth or mentation at that time, as Elsa was bright, active, and well-nourished.

5. Megan Oleniak ("Ms. Oleniak") purchased Elsa on February 29, 2020. As part of the purchase contract, Mr. Terry provided Ms. Oleniak with the health certificate signed by Dr. Nabozny. According to Ms. Oleniak, Mr. Terry told her that Elsa had no known illnesses and did not mention the heart murmur.

6. On March 14, 2020, Ms. Oleniak took Elsa to a local veterinarian for a new puppy exam. That veterinarian examined Elsa and noted a grade 4/6 heart murmur. The veterinarian recommended that Ms. Oleniak have Elsa's heart murmur rechecked in three weeks, and if it was still present, she schedule a consultation with a cardiologist.

7. On April 17, 2020, Ms. Oleniak took Elsa to North Carolina State University Veterinary Hospital for a cardiac consultation. After Elsa was examined and an echocardiogram performed, Elsa was diagnosed with severe subaortic stenosis ("SAS").

8. Ms. Oleniak later filed a complaint with the Board against Dr. Nabozny. The Board opened a file and conducted an investigation, which included obtaining copies of the medical records. When reviewing the medical record provided, Board staff discovered two different versions of the record for February 28, 2020. In one version, which was provided to the Board by Ms. Oleniak, there was a note that Dr. Nabozny recommended a cardiology consultation. The second version, which was provided to the Board by the Hospital, contained additional information, including notes reflecting that Elsa's heart condition was discussed with Mr. Davis. The second version also reflected Dr. Nabozny's recommendation that the client disclose Elsa's heart condition to any subsequent owner. The supplemental notes in the second version have no date or notation to indicate when the additional information was added or to document the addition of new information after the original record was prepared. During the Board's investigation, Dr. Nabozny explained that she intended to further accurately and descriptively reflect her conversation and communications with Mr. Davis and that she genuinely did not intend to mislead anyone,

9. COMAR 15.14.01.10A (Record Keeping) requires, for a companion animal, that a veterinarian prepare a legibly written record that accurately and thoroughly reflects the treatment provided, including the progress and disposition of the case. COMAR 15.14.01.10C provides that if a veterinarian discovers that the record is incomplete or in error, the veterinarian shall amend the record, being sure to date and initial the amendment. Dr. Nabozny violated this regulation by adding information to the original medical record without dating and initialing the amendment.

10. COMAR 15.14.05 (Health Certificate and Rabies Certificate for Companion Animals) applies to any veterinarian issuing a health certificate for a companion animal. It specifies certain information that must be included on a health certificate, including "pertinent medical history." *See* COMAR 15.14.05.02B(5). For a puppy, a grade 3 heart murmur should be included in

pertinent medical history because although it might go away on its own, there is the potential that it may become a significant health issue. A dog should not be deemed to be in overall good health when a significant heart murmur has been detected. Dr. Nabozny violated this regulation by failing to note Elsa's heart murmur on the health certificate completed on February 28, 2020, thereby creating the misleading impression that Elsa had no known health issues.

Taking the facts and circumstances into consideration, including the nature of the violation(s), the veterinarian's lack of disciplinary history, her acceptance of responsibility, and good faith cooperation in resolving this matter, 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 29th day of September, 2021, by the State Board of Veterinary Medical Examiners, ORDERED that:

(a) For violating COMAR 15.14.01.10C (Record Keeping) in her care and treatment of Elsa, a 13-month-old English Bulldog purchased by Megan Oleniak, by adding information to the original medical record without initialing and dating the additions to make it clear when she added the new information, Dr. Nabozny is assessed a civil penalty of $600;

(b) For violating COMAR 15.14.05.02B(5) (Health Certificate and Rabies Certificate for Companion Animals) by failing to make a note of a potentially serious health condition on the health certificate prepared on February 28, 2020, Dr. Nabozny is assessed a civil penalty of $300;

(c) Dr. Nabozny shall pay the total civil penalty ($900) within sixty days from the date of this Consent Agreement by check payable to the Maryland Department

of Agriculture ("MDA") with the notation "SBVME – 20-81" sent to the MDA at 50 Harry S. Truman Parkway, Annapolis, MD 21401; and

(d) As an additional requirement of this Consent Agreement, Dr. Nabozny shall complete the "Medical Record Keeping for Veterinarians" continuing education ("CE") course, available online at drip.vet. The CE shall be completed, and verification of completion provided to the Board within sixty days from the date of this Order. Verification should be sent by email to Vanessa Orlando, Executive Director, at vanessa.orlando@maryland.gov. Proof from the CE provider shall include the veterinarian's name, the number of hours of CE completed, the topics covered, and the date(s) the CE was given. This CE will not count toward the 18 credit hours required annually for re-registration of the veterinary license. The Board may audit CE records for relevant years to verify completion of the annual CE requirements and the CE required by this Consent Agreement.

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland, this 29th day of September, 2021.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

Elizabeth Callahan, DVM
President
State Board of Veterinary Medical Examiners
Maryland Department of Agriculture

CONSENT

I, Judith Nabozny, DVM, acknowledge that I have had an opportunity to consult with counsel before entering into this Consent Agreement. By this Consent, I hereby acknowledge the legal authority and jurisdiction of the Board over this matter to issue and enforce this Consent Agreement. To resolve this matter, I agree to accept and submit to the foregoing Consent Agreement, consisting of 8 pages. I sign this Consent Agreement without reservation as my voluntary act and deed after having had an opportunity to consult with counsel. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Agreement.

Date: 9-17-2024

Judith Nabozny, DVM