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

IN THE MATTER OF:	*	
FRANKLIN S. WAGNER, V.M.D.	*	DOCKET NO. 11-09
LICENSE NO. 1424	*	

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

CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order (Consent Agreement), dated this 25th day of April, 2011, is between the Maryland State Board of Veterinary Medical Examiners (Board) and Franklin S. Wagner, V.M.D. (Dr. Wagner), License No. 1424. This Consent Agreement resolves the charges filed by the Board on March 25, 2011 in Docket No. 11-09, alleging that Dr. Wagner violated the Veterinary Practice Act and related Code of Maryland Regulations (COMAR). Specifically, in Docket No. 11-09, the Board alleged that Dr. Wagner violated COMAR 15.14.01.07 Professional Judgment and Practice, and COMAR 15.14.01.10 Record Keeping, on August 10, 2010, by failing to provide at least the minimal standards of care and failing to maintain adequate records in the care and treatment of Samantha Jimenez's 8-week-old Bulldog puppy, "Xena," who was presented for tail docking. On March 31, 2011, the Board received Dr. Wagner's written request to resolve the charges informally. Thereafter, the parties entered into discussions and were able to reach a resolution in Docket No. 11-09. By entering into this Consent Agreement, Dr. Wagner waives the right to a hearing and appeal on the charges in Docket No. 11-09.

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, Agriculture Article §§ 2-301 *et seq.*, Annotated Code of Maryland and related 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 . . . [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 a veterinarian's license. Md. Code Ann., Agric. Art., § 2-310.1.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Dr. Wagner, by entering into and signing this Consent Agreement, while generally and specifically denying liability in this case, agrees to this Consent Agreement, acknowledging that the Board has sufficient evidence to find, as fact, and conclude as a matter of law that he did violate certain regulations adopted under the Veterinary Practice Act, specifically, COMAR 15.14.01.07 Professional Judgment and Practice, COMAR 15.14.01.10 Record Keeping, and COMAR 15.14.01.12-2F Dispensing of Federal Legend Drugs or Veterinary Prescription Drugs on August 10, 2010 , by failing to provide at least the minimal standards of care, failing to maintain adequate records in the care and treatment of Samantha Jimenez's 8-week-old Bulldog puppy, "Xena," and failing to properly label drugs for the puppy's treatment. Specifically, the Board asserts that on or about August 10, 2010, Dr Wagner failed to perform a physical examination prior to administering anesthesia to "Xena," or he performed the physical examination and failed to record it in the patient's record, and Dr. Wagner failed to record the following with respect to "Xena": the use of IV pentothal or butorphanol; the strength, frequency, and route of administration for amoxicillin; the use of penicillin; any instruction and/or communication with Ms. Jimenez to administer baby aspirin; and a description of the surgery. In addition, the Board asserts that on or about August 10, 2010, Dr. Wagner failed to properly label the amoxicillin he dispensed to Ms. Jimenez for treatment of "Xena." Taking all the facts and circumstances into consideration, the Board concluded that the most reasonable and appropriate resolution in these matters included the following sanctions.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 25th day of APRIL, 2011, by the Maryland State Board of Veterinary Medical Examiners, **ORDERED** that:

a. Dr. Wagner is assessed a civil penalty in the amount of $2,300.00, $1,000.00 of which is stayed ($500.00 for one charge for violating COMAR 15.14.01.07 Professional Judgment and Practice, $300 for each of five charges for violating COMAR 15.14.01.10 Record Keeping, and $300.00 for one charge for violating COMAR 15.14.01.12-2F Dispensing of Federal Legend Drugs or Veterinary Prescription Drugs), payment to be made to the Maryland State Board of Veterinary Medical Examiners within 30 days of the date of this Order;

b. Dr. Wagner's license shall be suspended for one week (stayed). The stay of suspension of the license is contingent upon compliance with the conditions of probation.

c. Dr. Wagner shall serve a period of probation of six months. While on probation, the veterinarian will obey all laws and regulations governing the practice of veterinary medicine in this State and the conditions of this Consent Agreement. Violation of probation means that the veterinarian is charged and the Board ultimately concludes that the veterinarian violated the Veterinary Practice Act, related regulations, or the terms of this Consent Agreement during the period of probation. Violation of probation will result in the stay being lifted, and the Board ordering the veterinarian to comply with the sanction; in this case, suspension of the license for up to one month.

d. As a condition of probation, Dr. Wagner shall complete six credit hours of continuing education (CE) in record keeping, as preapproved by the Board, within twelve months of the date of this Order. To fulfill this requirement, the veterinarian shall obtain approval for the selected CE from the Board before registering and attending in person the CE course. After completion of the 6 credit hours, the veterinarian shall forward to the Board proof of completion of the CE credits required under this Order. Proof will include Dr. Wagner's name, the number of hours of CE completed, the topics covered, and the dates the

CE courses were given. Completion of this CE will not be counted towards the 18 credit hours of CE required annually for re-registration of the veterinary license.

Chris H. Runde, D.V.M.
President
Maryland State Board of Veterinary Medical Examiners

CONSENT

I, Franklin S. Wagner, acknowledge that I have had an opportunity to consult with legal counsel before entering into and signing this document. By this Consent, I hereby acknowledge the legal authority and the jurisdiction of the Board over this matter and to issue and enforce this Consent Agreement. In order to resolve this matter, I agree to accept and submit to the foregoing Consent Agreement, consisting of four pages, including this page. I sign this Consent without reservation as my voluntary act after having had an opportunity to consult with counsel, and I acknowledge that I fully understand the language, meaning, and terms of this Consent Agreement.

4/19/11
Date

Franklin S. Wagner, V.M.D.

NOTARY

STATE OF Maryland
CITY/COUNTY OF Washington

I HEREBY CERTIFY that on this 19th day of April, 2011, before me, a Notary Public of the State and City/County aforesaid, personally appeared Franklin S. Wagner, D.V.M., and made oath in due form of law that the foregoing Consent Agreement and Order was his voluntary act and deed.

AS WITNESS my hand and notarial seal.

Bonnie K. Smith
Notary Public

My Commission expires: Dec. 26, 2013

BONNIE K. SMITH
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
My Commission Expires Dec. 26, 2013