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

IN THE MATTER OF:	*	
DENNIS G. FOSTER, D.V.M.	*	DOCKET NO. 11-25
LICENSE NO. 868	*	

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

CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order (Consent Agreement), dated this 21st JLH day of February, 2012 JLH ~~2011~~, is between the Maryland State Board of Veterinary Medical Examiners (Board) and Dennis G. Foster, D.V.M. (Dr. Foster), License No. 868. This Consent Agreement resolves the charges filed by the Board on October 3, 2011 in Docket No. 11-25, alleging that Dr. Foster violated certain Code of Maryland Regulations (COMAR) under the Veterinary Practice Act. Specifically, in Docket No. 11-25, the Board alleged that Dr. Foster violated COMAR 15.14.01.10 Record Keeping, and COMAR 15.14.01.07 Professional Judgment and Practice, on or about May 21, 2010, by failing to maintain adequate records and failing to provide the minimal standards of care in the treatment of a five-year-old neutered male Domestic Short-hair cat, "Freddie," who was presented by Karen Rosenberger for a fracture hind leg. On or about October 12, 2011, Dr. Foster requested to resolve the charges informally. Thereafter, the parties entered into discussions and were able to reach a resolution. By entering into this Consent Agreement, Dr. Foster waives the right to a hearing and appeal on the charges in Docket No. 11-25. Dr. Foster has a history with the Board of disciplinary actions in 1995, 2002, 2003, 2004, and 2005, involving a variety of violations.

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 through 2-316, 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. 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 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

Dr. Foster, by entering into and signing this Consent Agreement, while generally and specifically denying liability in this case, agrees to the provisions of 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 15.14.01.10 pertaining to record keeping, and COMAR 15.14.01.07 pertaining to professional judgment and practice. On or about May 21, 2010, Dr. Foster failed to maintain adequate records for a five-year-old neutered male Domestic Short-hair cat, "Freddie," presented for a fractured hind leg by Karen Rosenberger, when he failed to document in "Freddie's" record having taken the following actions:

a. Performed a physical examination on May 21, 2010;

b. Administered anesthesia on May 21, 2010;

c. Applied a Thomas splint and cast on May 21, 2010;

d. Interpreted radiographs taken on May 21, 2010;

e. Described the leg when the cast was checked on May 25, 2010;

f. Described the leg when the cast was checked on May 27, 2010; and

g. Described the leg when the cast was checked on June 1, 2010.

Additionally, on or about May 21, 2010, Dr. Foster failed to provide the minimal standards of care expected of a veterinarian in this State when he:

a. Employed a Thomas splint and cast for a comminuted fracture of the hind tibia, when internal fixation by surgical insertion of a plate was the appropriate standard of care for successful healing, on or about May 21, 2010;

b. Took only one radiographic view following splint application on or about May 21, 2010; and

c. Failed to provide adequate pain management to the patient before and/or after surgery on or about May 21, 2010.

Taking all the facts and circumstances into consideration, including the severity of the violation and Dr. Foster's prior disciplinary history, 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 21st day of February, 2012 JLH ~~2011~~, by the Maryland State Board of Veterinary Medical Examiners, ORDERED that:

a. For the violations of COMAR 15.14.01.10 Record Keeping and COMAR 15.14.07 Professional Judgment and Practice, Dr. Foster is assessed a civil penalty in the total amount of $8,400.00, ($600.00 for each of nine record-keeping violations and $1,000.00 for each of three professional judgment and practice violation) payment to be made to the Maryland State Board of Veterinary Medical Examiners ("SBVME") within **30** days of the date of this Order. (of which $3,400.00 is STAYed) *

b. Dr. Foster's License No. 868 shall be suspended for one month of which three weeks (21 days) is stayed. The stay of suspension of the license is contingent upon compliance with the conditions of probation.

c. Dr. Foster shall serve a period of probation of twelve 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 three weeks.

d. As a condition of probation, Dr. Foster shall complete twelve credit hours of continuing education (CE) in orthopedic surgery, six credit hours of CE in pain management, as **preapproved** by the Board, and six credit hours of CE in record keeping (Dr. James Wilson's online course). The veterinarian shall forward to the Board documentation from the CE provider showing proof of completion of the CE credits required under this Order. Proof from the course providers shall include Dr. Foster'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.

John L. Heizer, DVM

John L. Heizer, D.V.M.
Vice President
Maryland State Board of Veterinary Medical Examiners

CONSENT

I, Dennis G. Foster, 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 five 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.

2-1-12
Date

Dennis G. Foster, D.V.M.

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF BALTIMORE

I HEREBY CERTIFY that on this 1st day of FEBRUARY, 2012, before me, a Notary Public of the State and City/County aforesaid, personally appeared DENNIS G. FOSTER, 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.

Notary Public

My Commission expires:
4/7/12