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 *

IN THE MATTER *

JAMES D. NOLTE, D.V.M. * DOCKET NO. 07-021

LICENSE NO. 2076 *

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

DECISION AND ORDER

The State Board of Veterinary Medical Examiners ("Board") is the State licensing authority that oversees the practice of veterinary medicine in Maryland. Under the Veterinary Practice Act, Md. Code Ann., Agric. Art. §§ 2-301 *et seq.*, the Board may prescribe reasonable standards for the practice of veterinary medicine, including conduct and ethics. The Board also may discipline a veterinarian who violates a law or regulation governing the practice of veterinary medicine in this State. More specifically, the Board may "suspend, or revoke [the veterinarian's] license, and censure or place [the veterinarian] on probation." Md. Code Ann., Agric. Art. § 2-310. In addition, the Board may impose civil penalties of not more than $5,000. Md. Code Ann., Agric. Art., § 2-310.1.

In a Notice of Agency Action, dated October 29, 2007, the Board advised James D. Nolte, D.V.M. ("Dr. Nolte") that it was taking disciplinary action against him for not complying with the record-keeping requirements for companion animals specified in COMAR 15.14.01.10. The Notice also informed Dr. Nolte that the proposed sanction for such violations was One Thousand Two Hundred and Fifty Dollars ($1,250.00).

Enclosed with the notice of agency action was the charging document enumerating the facts giving rise to the alleged violations. Both were sent by certified mail return receipt requested. Because Dr. Nolte did not contest the charges within ten days after the charges were mailed, the statutory time period, the Board issued an Order of Default on January 22, 2008. The fifteen day statutory time period for moving to vacate this Order of Default now has passed, and Dr. Nolte has not filed a motion to vacate.

FINDINGS OF FACT

1.) Dr. Nolte is a licensed veterinarian in Maryland and has been at all times relevant to these charges.

2.) On or about March 11, 2006, June Worden ("Ms. Worden") took her parakeet, named Oscar, to Dr. Nolte for care because he was not feeling well. The parakeet was eleven years old.

3.) Over the next month and a half, Ms. Worden took the parakeet to be examined by Dr. Nolte approximately seven times. During this time, Dr. Nolte treated the bird for an infected foot by administering Baytril, an antibiotic, on March 14, March 24, and April 29th. The amount of Baytril administered on each of these occasions was not recorded in the patient's records.

4.) In addition, Dr. Nolte gave Ms. Worden Baytril to administer to the parakeet at home in bottles that were not marked with any labeling indicating the type of drug given and the expiration date of the drug.

5.) On or about September 21, 2006, Ms. Worden filed a complaint with the Board concerning Dr. Nolte's care of her bird. She enclosed copies of medical records she received from Dr. Nolte's office for the 2006 dates that Dr. Nolte treated her parakeet. The 2006 dates are March 11, March 14, March 24, April 1, April 4, April 19, and April 29.

6.) On or about October 26, 2006, the Board received from Dr. Nolte's office his

response to her complaint and copies of the medical records concerning Ms. Worden's bird. These records differ markedly from the records submitted by Ms. Worden.

7.) A necropsy performed on or about April 26, 2006, by Dr. Maurice Clarke of Salisbury Animal Health Laboratory reported his findings as "[b]ird was thin, there was Pericarditis, Airsacculitis, Pneumonia, and an infected right foot." He diagnosed the cause of death as "stress," and commented that the "bird was 11 years old and close to it's [sic] expected life span. The stress of old age and infected foot and possibly rough handling contributed to its demise."

CONCLUSIONS OF LAW

Based on the foregoing findings of undisputed fact, the Board concludes, as a matter of law, that:

1.) Dr. Nolte's documentation of the care he provided to Ms. Worden's bird failed to comply with the record-keeping requirements for companion animals specified in COMAR 15.14.01.10. Specifically, Dr. Nolte failed to:

a.) Record the amount of Baytril administered on March 14, 2006, in violation of COMAR 15.14.01.10A(8).

b.) Record the amount of Baytril administered on March 24, 2006, in violation of COMAR 15.14.01.10A(8).

c.) Record the amount of Baytril administered on April 29, 2006, in violation of COMAR 15.14.01.10A(8).

d.) Indicate that he amended the records for March 11 and 24 and April 1, 4, 13, 19, 29, and 30, 2006, and initial and date such amendments in violation of COMAR 15.14.01.10C.

2.) By dispensing the drug Baytril without proper labeling, including the failure to note the name of the drug dispensed and the expiration date, Dr. Nolte violated COMAR 15.14.01.12-2.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 21st day of February, 2008, by the State Board of Veterinary Medical Examiners, **ORDERED** that Dr. Nolte will pay a civil penalty in the amount of $1,250.00 to the Board within thirty days from the date this decision takes effect.

STATE BOARD OF VETERINARY MEDICAL EXAMINERS

2/21/08
Date

Chris H. Runde, DVM
Chris H. Runde, D.V.M.
President, State Board of Veterinary Medical Examiners
50 Harry S Truman Parkway, Room 203
Annapolis, MD 21401

Attach: Notice of Right to Appeal