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

BENJAMIN F. BYERS, D.V.M. LICENSE NO. 4628	*	
	*	DOCKET NO. 12-43
MICHELLE A. BYERS, D.V.M. LICENSE NO. 5491	*	
HOSPITAL LICENSE NO. 21-006	*	

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CIVIL PENALTY FINAL ORDER

This Civil Penalty Order (Order), dated this 29th day of MARCH, 2012, is issued by the Maryland State Board of Veterinary Medical Examiners (Board) against Benjamin F. Byers, D.V.M. ("Dr. B. Byers"), License No. 4628 and Michelle A. Byers, D.V.M. ("Dr. M. Byers"), License No. 5491. This Order confirms the intention of Drs. B. Byers and M. Byers to waive the right to contest the charge filed by the Board on March 15, 2012 in Docket No. 12-43, alleging that Drs. B. Byers and M. Byers violated a certain Code of Maryland Regulation (COMAR) under the Maryland Veterinary Practice Act. Specifically, in Docket No. 12-43, the Board alleged that Drs. B. Byers and M. Byers violated COMAR 15.14.03.06 Storage Areas: Food and Bedding, Refuse Equipment, on or about February 21, 2012, in that Drs. B. Byers and M. Byers failed to store bulk supplies of food for animals off the floor on pallets, racks, or carts at their veterinary hospital, which they own and operate; specifically, Park Circle Animal Hospital, Hospital License Number 21-006. On or about March 26, 2012, Drs. B. Byers and M. Byers submitted full payment of the $300 civil penalty assessed by the Board as the only sanction in this matter and, thus, voluntarily waived the right to a hearing and appeal on the charge in Docket No. 12-43.

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. 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

Drs. B. Byers and M. Byers have submitted payment of the $300 civil penalty assessed by the Board in Docket No. 12-43, and waived the right to a hearing or appeal of the charge. After having the opportunity to seek advice of legal counsel, Drs. B. Byers and M. Byers voluntarily agreed to the Board's sanction, acknowledging that the Board has sufficient evidence to find, as fact, and conclude as a matter of law that on or about February 21, 2012, they did violate a regulation adopted under the Veterinary Practice Act; specifically, COMAR 15.14.03.06 Storage Areas: Food and Bedding, Refuse Equipment, by failing to store bulk supplies of food for animals off the floor on pallets, racks, or carts at their veterinary hospital, which they own and operate; specifically, Park Circle Animal Hospital, Hospital License Number 21-006.

Taking all the facts and circumstances into consideration, including the severity of the violation, the veterinarians' history of prior violations with the Board, and the veterinarians' good faith effort in this matter, 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 29th day of March, 2012, by the Maryland State Board of Veterinary Medical Examiners, **ORDERED** that for the violation of a regulation under the Maryland Veterinary Practice Act; specifically, COMAR 15.14.03.06 Storage Areas: Food and Bedding, Refuse Equipment, Drs. B. Byers and M. Byers are assessed a civil penalty in the amount of $300. The Board acknowledges that payment of $300 has been received from Drs. B. Byers and M. Byers.

Chris H. Runde, DVM

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

