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

IN THE MATTER OF:	*	
DESI J. KELLEHER, D.V.M.	*	DOCKET NO. 13-47B
LICENSE NO. 6444	*	

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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order (Consent Agreement), dated this 5th 14th CHR day of June, 2013, is between the Maryland State Board of Veterinary Medical Examiners (Board) and Desi J. Kelleher, D.V.M. (Dr. Kelleher), License No. 6444. This Consent Agreement resolves the charge filed by the Board on May 8, 2013 in Docket Number 13-47B, alleging that Dr. Kelleher violated a certain Code of Maryland Regulation (COMAR), pertaining to the care and treatment of Joanne Schech's one-year-old female Chihuahua, "Tiny Tot," who was presented for inappetance, vomiting, and lethargy on or about December 31, 2012. On May 22, 2013, Dr. Kelleher requested to resolve the matter without a hearing. Subsequently, the parties were able to reach a resolution. By entering into this Consent Agreement, Dr. Kelleher waives the right to a hearing and appeal on the charge in Docket Number 13-47B. Dr. Kelleher has no prior disciplinary history with the Board since licensing in 2009.

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 §§ 2-301through 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 or veterinary practitioner . . . [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, or revoking a veterinarian's license, respectively. 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. Kelleher, 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 she did violate a certain regulation adopted under the Veterinary Practice Act; specifically, COMAR 15.14.01.07, pertaining to professional judgment and practice regarding the care and treatment of Joanne Schech's one-year-old female Chihuahua, "Tiny Tot," who was presented for inappetance, vomiting, and lethargy on or about December 31, 2012. Specifically, Dr. Kelleher allowed non-gloved fingers to appear in the patient's radiographs.

Taking all the facts and circumstances into consideration, including the severity of the violation, Dr. Kelleher's lack of disciplinary history with the Board since her licensing in 2009, and Dr. Kelleher's good faith effort to resolve this matter promptly, the Board concluded that the most reasonable and appropriate resolution in this matter included the following sanctions.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 14th day of June, 2013, by the Maryland State Board of Veterinary Medical Examiners, ORDERED that:

A. For the first offense violation of COMAR 15.14.01.07 Professional Judgment and Practice, Dr. Kelleher is assessed a civil penalty of $500. The Board acknowledges receipt of payment in full on or about May 17, 2013.

B. Dr. Kelleher shall serve a period of probation of six months. While on probation, the veterinarian shall 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.

C. As a condition of probation, Dr. Kelleher shall complete six credit hours of continuing education (CE) in radiology, to be preapproved by the Board. Within 30 days of completion of the CE, 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 CE provider shall include Dr. Kelleher's name, the number of hours of CE completed, the topics covered, and the dates the CE were obtained. 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, DVM

~~John L. Heizer, D.V.M.~~ Chris H. Runde, DVM
~~Vice President~~ President
State Board of Veterinary Medical Examiners

CONSENT

I, Desi Kelleher, 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.

6/5/13
Date

Desi Kelleher, D.V.M.

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF CARROLL

I HEREBY CERTIFY that on this day of JUNE 5, 2013, before me, a Notary Public of the State and City/County aforesaid, personally appeared DESI KELLERER, D.V.M., and made oath in due form of law that the foregoing Consent Agreement and Order was her voluntary act and deed.

AS WITNESS my hand and notarial seal.

Raymond Serafin

Notary Public

My Commission expires: 10·17·14

RAYMOND M. SERAFIN
NOTARY PUBLIC
CARROLL COUNTY
MARYLAND
My Commission Expires 10/17/2014