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	*	
GREGORY BURBELO, D.V.M.	*	DOCKET NO.: 97-009
LICENSE NO. 3655	*	

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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, the Board may prescribe reasonable standards for the practice of veterinary medicine, including conduct and ethics. The Board also may discipline a veterinarian who it finds guilty of violating 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); and in lieu of, or in addition to, suspending a veterinarian's license, the Board may impose a civil penalty of not more than $5,000 (Md. Code Ann., Agric. Art., §2-310.1).

On August 26, 1999, Dr. Gregory Burbelo appeared before the Board to contest charges that he did not conform to the minimum standards of care and treatment which are customary among veterinarians in this State, a violation of COMAR 15.14.01.07, and that he did not conduct himself in relation to the public, his colleagues and clients (patient-owners), so as to merit their full confidence and respect, a violation of COMAR 15.14.01.04. These charges were based on the following allegations:

1. Dr. Burbelo frequently did not wear surgical gloves when performing thoracic and/or abdominal surgeries, including ovario hysterectomies, on cats and dogs; and

2. Dr. Burbelo frequently began surgeries without awaiting the results of the pre-surgical blood screens which were ordered with the owners' consent.

Pursuant to the Board's Rules of Procedure, Dr. Burbelo received a copy of the charges that the Board filed against him. Dr. Burbelo was informed of his right to counsel and retained Edward Gerstenfield, Esq. to represent him at the hearing.

Dr. Donald M. Carman, the Board's President, presided over the hearing. The following Board members also were in attendance: (1) Dr. Willard L. Hawkins; (2) Dr. Melvin D. Howard; (3) Dr. James R. McClellan; (4) Dr. John P. O'Mara; and (5) Mr. Iven J. Rathbone. Craig Nielsen, Assistant Attorney General, served as counsel to the Board.

Thomas F. Filbert, Assistant Attorney General, was the presenter of evidence.

DISCUSSION OF THE EVIDENCE

I.
(Gloveless surgery)

Dr. Burbelo disputed the charge that he performed gloveless surgery for invasive procedures, testifying that he always wore gloves when he performed a surgery that involved an invasion of the thoracic or abdominal cavity. In support of his testimony, Dr. Burbelo introduced receipts showing that, in May 1996, he purchased 320 pairs of size 7.5, sterile latex surgical gloves; and further testified that he wore size 7.5 gloves. Dr. Burbelo also introduced photographs depicting him in 1996 wearing gloves while performing a surgery. On cross-examination, Dr. Burbelo noted that these photographs were taken for publicity purposes to show his clientele that his clinic was a "full-service hospital"; and that he was attempting to portray his hospital in the best possible light.

Dr. Burbelo called Ms. Caroline Tibbetts, a clinic employee, to testify on his behalf. Ms. Tibbetts' testimony, however, largely undercut that offered by Dr. Burbelo. When asked whether Dr. Burbelo wore gloves at all times to perform ovario-hysterectomies, Ms. Tibbetts testified that she could not state that Dr. Burbelo wore gloves "at all times" during these procedures.

The testimony of Ms. Stacey Miller, a former employee of the clinic, differed sharply from Dr. Burbelo on this issue. Ms. Miller, who had managerial responsibilities at the clinic, testified that she assisted Dr. Burbelo in surgeries, including ovario-hysterectomies on cats and dogs; and that Dr. Burbelo did not wear gloves during these procedures. Ms. Miller noted that Dr. Burbelo's clinic was her first experience working at a veterinary hospital; that initially, she did not question Dr. Burbelo's gloveless surgeries; and that she did so only after working with Dr. Tawnya Hopkins, another veterinarian at the clinic, observing that she wore gloves during surgeries, and then questioning her on this subject. Ms. Tibbetts testified that Ms. Miller was a truthful person.

Ms. Miller also recounted an emotional meeting that she and others had with Dr. Burbelo in August 1996; that during this meeting, many issues were discussed, including Dr. Burbelo's

gloveless surgeries; that following this meeting, Dr. Burbelo began wearing gloves during surgeries.

The testimony of Dr. Tawnya Hopkins also differed sharply from Dr. Burbelo's on this issue. Dr. Hopkins testified that she worked at Dr. Burbelo's clinic from April 1994 until September 1996; and that she observed Dr. Burbelo perform surgery each Wednesday - her scheduled day for office appointments, and Dr. Burbelo's scheduled day for surgery. When asked whether Dr. Burbelo wore gloves to perform surgery, Dr. Hopkins testified that she did see him wear gloves "on a few occasions," but "routinely" he did not - including when he performed abdominal surgeries.

The testimony of Dr. John Trujillo, another veterinarian who worked at the clinic, supported that offered by Ms. Miller and Dr. Hopkins. Dr. Trujillo testified that he worked briefly for Dr. Burbelo - from December 1996 until January 1997; and that, although he did not observe Dr. Burbelo perform gloveless invasive surgeries, he did hear Dr. Burbelo remark that he (Dr. Burbelo) only wore gloves during such procedures to appease his employees.

The parties stipulated to the testimony of Dr. Peter Shires, a Board certified surgeon, who opined that gloveless surgery is an unacceptable practice for invasive procedures and does not conform to the minimum standards of care and treatment customary in any modern practice in this country.

II.
(Pre-anesthetic blood work)

Dr. Burbelo disputed the charge that he frequently performed surgeries without awaiting the results of ordered blood tests, testifying that pre-anesthetic blood screening generally occurred in the morning and, that most of this work - 99% of it - was completed prior to surgery. Dr. Burbelo also testified that during this time period, an anesthetic patient was not required to have pre-anesthetic blood work performed on it; and to emphasize this point, Dr. Burbelo introduced monthly reports from 1996 showing that a large number of owners had elected not to order pre-anesthetic blood screens for their pets. For example, the February 1996 monthly report shows that while 98 anesthetic procedures were performed, only 50 pre-anesthetic blood screens were ordered. When the relevance of this evidence was questioned, Dr. Burbelo argued that the charge against him carried the implication that he was exploiting his patients and, if this truly was the case, then more pre-anesthetic patients would have had these tests performed - certainly more than his records show. Ironically, Dr. Burbelo now requires pre-anesthetic blood screens for all anesthetic procedures.

Dr. Burbelo also called Ms. Caroline Tibbetts to testify on his behalf on this matter. Ms. Tibbetts testified that she ran pre-anesthetic blood work in the morning before scheduled surgeries, but acknowledged that she was not the only person at the clinic charged with performing this task - that Ms. Miller and Ms. Beth Colgan also had this responsibility.

The testimony of Ms. Miller also differed sharply from Dr. Burbelo's on this matter. Ms. Miller testified that she ran pre-anesthetic blood work for the clinic; that when she worked for Dr. Burbelo, he had directed his staff to encourage owners whose pets were undergoing surgery to consent to such work. Noting that Dr. Burbelo had a "very busy" practice, Ms. Miller further testified that Dr. Burbelo oftentimes began surgery on an animal before the results of an ordered pre-anesthetic blood screen were obtained.

Dr. Hopkins' testimony also differed sharply from Dr. Burbelo's on this matter. Like Ms. Miller, Dr. Hopkins testified that when she worked at the clinic, owners of surgical patients could elect whether or not to have pre-anesthetic blood work run on their animals; and routinely, after an owner had opted for such work, she observed that Dr. Burbelo would begin the surgery without awaiting the test results. Dr. Hopkins also testified that on one occasion, Dr. Burbelo chastised her for waiting until she obtained the results of an ordered blood test before beginning a scheduled surgery.

Dr. Trujillo's testimony supported that offered by Ms. Miller and Dr. Hopkins. While Dr. Trujillo could not testify that Dr. Burbelo performed surgeries without awaiting ordered pre-anesthetic blood work, he did testify that in discussing this matter with Dr. Burbelo, Dr. Burbelo chuckled about the implications of not waiting for such results.

FINDINGS OF FACT

1. Dr. Burbelo is a licensed veterinary practitioner in this State and was at all times relevant to the charges filed against him in this matter.

2. Dr. Burbelo is the owner of the Carroll County Veterinary Clinic. In 1994 - 1996, Dr. Burbelo employed, among others, the following individuals at this clinic:

   a. Dr. Tawnya Hopkins, a licensed veterinary practitioner in this State;
   b. Dr. John Trujillo, a licensed veterinary practitioner in this State, from December 1996 until January 1997.
   c. Ms. Caroline Tibbetts, a registered veterinary technician, who had managerial responsibilities at the clinic, assisted in surgeries, ran blood tests, and performed various sundry duties;
   d. Ms. Stacey Miller, who, like Ms. Tibbetts, had managerial responsibilities at the clinic, assisted in surgeries, ran blood tests, and performed various sundry duties; and
   e. Beth Colgan, a technician, who like Ms. Miller and Ms. Tibbetts, ran blood tests.

3. In 1994 - 1996, Dr. Burbelo frequently performed gloveless abdominal surgery, including ovario-hysterectomies, on animals. Dr. Hopkins and Stacey Miller personally observed Dr. Burbelo perform gloveless abdominal surgeries. Ms. Tibbetts also personally witnessed Dr. Burbelo perform such surgeries.

4. In late 1996, Dr. Burbelo began wearing gloves regularly to perform invasive surgeries. As evidence by his remark to Dr. Trujillo, Dr. Burbelo changed his custom, at least in part, to appease his employees.

5. Gloveless surgery is an unacceptable practice for invasive procedures and does not conform to the minimum standards of care and treatment customary in any modern practice in this country.

6. In 1994 - 1996, Dr. Burbelo frequently began surgeries without awaiting the results of the pre-surgical blood screens, which were ordered with the owners' consent. Dr. Hopkins and Stacey Miller had firsthand knowledge that Dr. Burbelo routinely performed surgeries on animals without awaiting ordered pre-anesthetic blood work. Dr. Burbelo admitted that at least occasionally he has proceeded with a surgery, even though the results of an ordered pre-anesthetic blood screen were not known. On these occasions, Dr. Burbelo has not delivered the care that he had promised to provide.

CONCLUSIONS OF LAW

1. In not wearing surgical gloves when performing abdominal surgeries, including ovario-hysterectomies, on cats and dogs, Dr. Burbelo did not conform to the minimum standards of care and treatment which are customary among veterinarians in this State, a violation of COMAR 15.14.01.07; and

2. In beginning surgeries without awaiting the results of the pre-surgical blood screens which were ordered with the owners' consent, Dr. Burbelo did not conduct himself in relation to the public, his colleagues and clients (patient-owners), so as to merit their full confidence and respect, a violation of COMAR 15.14.01.04.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 18th day of November, 1999, by the State Board of Veterinary Medical Examiners:

ORDERED that beginning December 1, 1999, Dr. Gregory Burbelo's license to practice veterinary medicine in this State be and is hereby suspended for a period of six months; but that all but two weeks of this suspension is stayed; and that this suspension run concurrently with that the Board imposed against Dr. Burbelo in Docket No. 97-008.

ORDERED that Dr. Gregory Burbelo pay a **CIVIL PENALTY** in the amount of Five Hundred Dollars ($500.00) within sixty (60) days from receipt of this Order (payable to the State Board of Veterinary Medical Examiners) for the violations hereinafter specified:

1. Two Hundred Fifty Dollars ($250) for frequently not wearing surgical gloves when performing abdominal surgeries, including ovario-hysterectomies, on cats and dogs, a violation of COMAR 15.14.01.07; and

2. Two Hundred Fifty Dollars ($250) for frequently beginning surgeries without awaiting the results of the pre-surgical blood screens which were ordered with the owners' consent, a violation of COMAR 15.14.01.04;

ORDERED that Dr. Gregory Burbelo be and that he is hereby placed on **PROBATION** for a period of two (2) years beginning on the date that the Board executes this Order; and be it further

ORDERED that Dr. Gregory Burbelo is subject to the following **TERMS AND CONDITIONS OF PROBATION:**

(1) Dr. Burbelo shall obey all laws and regulations governing the practice of veterinary medicine in this State; and

(2) Dr. Burbelo shall pay the civil penalty that the Board imposed as specified above.

11/12/99
Date

STATE BOARD OF VETERINARY MEDICAL EXAMINERS

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