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

IN THE MATTER OF:	*	
LEE MILLER, D.V.M.	*	DOCKET NO. 04-021
LICENSE NO. 985	*	

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CONSENT AGREEMENT

This Agreement, dated this 20th day of January, 2005, is between the State Board of Veterinary Medical Examiners ("Board") and Lee Miller, D.V.M., License No. 985 ("Dr. Miller"). The Agreement concerns the charges that the Board filed against Dr. Miller, alleging that he violated the Maryland Veterinary Practice Act (Md. Code Ann., Agric Art. §§2-301, *et seq.*), pertaining to his treatment of "Leo," a four-year old Yorkshire Terrier owned by Ms. Rachel Hill and Mr. Don Burkett.

Under the Veterinary Practice Act, 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 ... regulations after receiving a license" (Md. Code Ann., Agric. Art., §2-310(8)); 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).

More specifically, in this matter, the Board's charges against Dr. Miller include the following:

(1) He failed to comply with the record-keeping requirements for companion animals provided under COMAR 15.14.01.10; and

(2) The care he provided Leo fell below the minimal standard required of a veterinarian in this State, a violation of COMAR 15.14.01.07.

FINDINGS OF FACT

Dr. Miller, by entering into and signing this document, acknowledges that the Board could produce evidence establishing the following Findings of Fact:

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1. At all times relevant to the charges, Dr. Miller was, and is, a veterinarian licensed to practice veterinary medicine in the State of Maryland.

2. On or about the evening of March 23, 2004, Rachel Hill and Don Burkett presented their dog, Leo, a four-year old male Yorkshire Terrier, to Dr. Miller, the owner of Animal Care Clinic, for veterinary care, to wit: to treat their dog, which had a one-day history of lethargy, vomiting, and no bowel movement.

3. Following presentation, Dr. Miller administered Reglan, an antiemetic, to Leo, but did not note in the patient's record the dosage or route of administration. Reglan is the trade name for metoclopramide, a medication that is contraindicated in cases of gastrointestinal obstruction. Dr. Miller also administered Baytril to Leo. Likewise, he failed to note in the patient's record the dosage or route of administration for this medication.

4. Responding to the owners' written complaint, Dr. Miller stated that Leo, on presentation, weighed 5.5 pounds, and was moribund and dehydrated. Dr. Miller, however, did not note these findings in the patient's record. The pertinent part of the patient's record pertaining to the animal's condition and findings made on admission only provides: "O brought K9 into us. K9 had got some crunchy cheese curls - and has been sick after that.... Keeping overnite to do x-rays. K9 is bloated."

5. Responding to the owners' written complaint, Dr. Miller also stated that he examined Leo when the dog initially was presented for veterinary care. If Dr. Miller examined the dog, he did not note his initial physical examination findings in the patient's record. At a minimum, given the dog's presenting complaints, Dr. Miller should have examined and recorded Leo's hydration status, temperature, pulse rate, respiratory rate, the presence or absence of abdominal pain, and other such basic information that would have been necessary to assess the patient's condition and establish a diagnostic and therapeutic plan. Dr, Miller, however, failed to do so.

6. Following his initial examination, Dr. Miller did not conduct basic diagnostic tests necessary to: (a) evaluate the causes for the vomiting, (b) assess fluid and electrolyte abnormalities, and (c) establish a therapeutic plan. Specifically, Dr. Miller did not take: (a) a biochemical profile, (b) complete blood count, and (c) abdominal

radiographs.

7. During Leo's hospitalization, the dog continued to vomit. Under entries for March 25, 2004, the patient's record provides: "Offer K9 some water[;] he drank some but then vomited it back up."

8. Responding to the owners' written complaint that Leo was hospitalized for several days without water, Dr. Miller stated that the dog's veins were collapsed, due to dehydration and, as such, they could not be used for IV administration. In lieu of IV fluid therapy, Dr. Miller stated that he administered about 500 cc's of Lactated Ringers subcutaneously to the dog over a two-day period. Dr. Miller, however, did not include this information in the patient's record. Indeed, the patient's record contains no written parameters addressing the dog's hydration status.

9. Given the dog's presenting complaints, the dog's vomiting during hospitalization, and the assessment that the dog was moribund and that his veins were collapsed due to dehydration, Dr. Miller ought to have administered IV fluid therapy. Dr. Miller's stated treatment (to wit: subcutaneous administration of 500 cc's of Lactated Ringers) was insufficient to treat the dog's dehydration because there would have been insufficient peripheral circulation (as evidenced by the collapsed veins) to absorb subcutaneously administered fluids into the vascular space. If Dr. Miller could not insert an IV catheter, he should have performed an IV cut-down to provide vascular access, or referred the dog to another hospital.

10. On the dog's second day of hospitalization, Dr. Miller performed a barium series. To perform this test, Dr. Miller sedated the dog with Telazol. Dr. Miller failed to note in the patient's record the dosage or route of administration. In performing this test, Dr. Miller did not take multiple abdominal radiographic views (to wit: at least a lateral and ventrodorsal view) at hourly intervals until the barium had left the dog's stomach (a process that normally takes up to four hours in dogs). Instead, Dr. Miller stopped the series after one hour (an immediate radiograph and a one-hour radiograph) and, in each instance, took only a lateral view. During this one-hour period, no barium ever left the dog's stomach, which is abnormal (normally, some barium should be in the duodenum after thirty minutes). Despite this abnormality, Dr. Miller took no other

radiographs to confirm delayed gastric emptying. For this procedure, the patient's record states only: "maybe an obstruction? X-ray showed." No reference is made in the patient's record that the barium never left the dog's stomach.

11. On the dog's third day of hospitalization, Dr. Miller performed exploratory surgery upon Leo. Dr. Miller did not indicate in the patient's record the medication, and amount used, to anesthetize the dog.

12. In his response to the owners' written complaint, Dr. Miller stated that Leo's condition at the time of surgery was very grave, and that the dog never regained consciousness following surgery. Dr. Miller, however, did not note this information in the patient's record. On the latter point, Dr. Miller simply noted that the dog was "not doing well after sx."

13. Although at the time of surgery, Leo was dehydrated, and his condition was very grave, Dr. Miller performed the procedure without correcting the animal's dehydration and electrolyte and acid-base disturbance.

14. Following surgery, Leo was placed in a cage, and later died during the night -- unattended -- without ever having regained consciousness. Neither Dr. Miller nor anyone on his staff had remained with Leo to monitor his condition. In addition, Dr. Miller did not present the owners the option of transferring Leo to an emergency facility for care and monitoring.

CONCLUSIONS OF LAW

Based upon these Findings of Fact, the Board makes the following Conclusions of Law:

1. In failing to record in the patient's record the dosage of a medication (to wit: Reglan) that he administered to a companion animal in his care, Dr. Miller failed to comply with the record-keeping requirements for practicing veterinarians in this State, a violation of COMAR 15.14.01.10A(7) (a veterinarian shall record the amount of any medication administered to a companion animal).

2. In failing to record in the patient's record the dosage of a medication (to wit: Baytril) that he administered to a companion animal in his care, Dr. Miller failed to

comply with the record-keeping requirements for practicing veterinarians in this State, a violation of COMAR 15.14.01.10A(7) (a veterinarian shall record the amount of any medication administered to a companion animal).

3. In failing to record in the patient's record the dosage of a medication (to wit: Telazol) that he administered to a companion animal in his care, Dr. Miller failed to comply with the record-keeping requirements for practicing veterinarians in this State, a violation of COMAR 15.14.01.10A(7) (a veterinarian shall record the amount of any medication administered to a companion animal).

4. In failing to record in the patient's record the condition of an animal at the beginning of custody, Dr. Miller failed to conform to those minimal standards of care and treatment that are customary among veterinarians in this State, a violation of COMAR 15.14.01.07 (a veterinarian shall record the physical condition at the beginning of custody of a companion animal).

5. In failing to perform a more thorough examination of the dog to assess his condition (to wit: determining the dog's hydration status, temperature, pulse rate, respiratory rate, the presence or absence of abdominal pain, *etc.*), given the dog's presenting complaints (to wit: a one-day history of lethargy, vomiting, and no bowel movement), Dr. Miller's initial examination of this animal did not conform to the minimal standards of care expected of a veterinarian in this State, a violation of COMAR 15.14.01.07.

6. In failing to conduct basic diagnostic tests at the beginning of custody to evaluate the causes for the vomiting, assess fluid and electrolyte abnormalities, and establish a therapeutic plan (to wit: taking a biochemical profile, complete blood count, and abdominal radiographs), given the dog's presenting complaints, Dr. Miller's initial work-up on this animal did not conform to the minimal standards of care expected of a veterinarian in this State, a violation of COMAR 15.14.01.07.

7. In failing to administer IV fluid therapy or, if unable to insert an IV catheter, in failing to perform an IV cut-down to provide vascular access, or to refer the dog to another hospital, given the dog's presenting complaints, the dog's vomiting during hospitalization, and the assessment that the dog was moribund and that his veins were

collapsed due to dehydration, Dr. Miller's treatment did not conform to the minimal standards of care expected of a veterinarian in this State, a violation of COMAR 15.14.01.07.

8. In performing the barium series, by taking only a lateral radiographic view of the dog's abdomen each hour (rather than taking multiple views each hour, *e.g.*, a lateral and ventrodorsal view), and by stopping the series after only one hour (rather than waiting until no barium was left in the dog's stomach - a process that normally takes up to four hours in dogs), and by not taking additional radiographs to confirm delayed gastric emptying (particularly, given the abnormality here, that no barium had left the dog's stomach after one hour), Dr. Miller's treatment did not conform to the minimal standards of care expected of a veterinarian in this State, a violation of COMAR 15.14.01.07.

9. In failing to note in the patient's record the medication, and amount, used to anesthetize the dog when he performed exploratory surgery upon the animal, Dr. Miller failed to comply with the record-keeping requirements for practicing veterinarians in this State, a violation of COMAR 15.14.01.10A(7) (a veterinarian shall record the amount of any medication administered to a companion animal).

10. In failing to note that the patient's condition at the time of surgery was very grave, and that the dog never regained consciousness following surgery, Dr. Miller failed to comply with the record-keeping requirements for practicing veterinarians in this State, a violation of COMAR 15.14.01.10A(8) (a veterinarian shall record the progress of a case).

11. In performing exploratory surgery upon an animal that was dehydrated, and whose condition was very grave, without correcting the animal's dehydration and electrolyte and acid-base disturbance, Dr. Miller's treatment did not conform to the minimal standards of care expected of a veterinarian in this State, a violation of COMAR 15.14.01.07.

12. In leaving a post-surgical patient that had not regained consciousness, and whose condition was grave, unattended, in not providing fluid therapy to the animal, and in not presenting the owners the option of transferring the animal to an emergency

facility for care and monitoring, Dr. Miller's post-surgical care did not conform to the minimal standards of care expected of a veterinarian in this State, a violation of COMAR 15.14.01.07.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, finding that Lee Miller, D.V.M., License No. 985, violated COMAR 15.14.01.07 and 15.14.01.10, it is this 11 day of JAN, 2005, by the State Board of Veterinary Medical Examiners, **ORDERED**:

1.) That Dr. Miller is issued a civil penalty in the amount of Three Thousand One Hundred Dollars ($3,100.00);

2.) That Dr. Miller's license to practice veterinary medicine in this State is suspended for one week, but that the suspension is stayed;

3.) That Dr. Miller is placed on probation for a period of six months, beginning the date this Consent Agreement is signed, under the following terms and conditions:

a.) That he obey all laws and regulations governing the practice of veterinary medicine in this State; and

b.) That he pay the civil penalty within thirty (30) days from the date this Consent Agreement is signed.

1-20-2005
Date

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

CONSENT

I, Lee Miller, D.V.M., acknowledge that I had an opportunity to consult with counsel before entering into and signing this document. By this Consent, I hereby acknowledge that the Board, by a preponderance of the evidence, could prove the

Findings of Fact and Conclusions of Law contained herein. Accordingly, in order to resolve these matters, I agree to accept and submit to the foregoing Consent Agreement, consisting of 7 pages.

I acknowledge the validity of this Consent Agreement as if entered after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the laws of the State of Maryland. I also affirm that I am waiving my right to appeal from this Consent Agreement.

I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Agreement.

I sign this Consent Agreement without reservation as my voluntary act and deed after having an opportunity to consult with counsel, and I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Agreement.

Jan 11, 2005
Date

Lee E. Miller D.V.M.
Lee Miller, D.V.M.
Respondent

NOTARY

STATE OF Maryland
CITY/COUNTY OF Frederick

I HEREBY CERTIFY that on this 18th day of January 2005, before me, a Notary Public of the State and City/County aforesaid, personally appeared Lee Miller, D.V.M., and made oath in due form of law that the foregoing Consent Agreement was his voluntary act and deed.

AS WITNESS my hand and notarial seal.

Notary Public

My Commission Expires: Feb 19, 2008