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

IN THE MATTER OF:	*	
IRVIN E. HERLING, DVM LICENSE NO. 1711	*	DOCKET NO. 22-43
	*	
DOC SIDE VETERINARY MEDICAL CENTER HOSPITAL LICENSE NO. 30-031	*	

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

CIVIL PENALTY FINAL ORDER

This Civil Penalty Final Order ("Order"), dated this 19th day of January, 2022, is issued by the Maryland State Board of Veterinary Medical Examiners ("Board" or "SBVME") against Irvin E. Herling, DVM ("Dr. Herling") (License No. 1711), the owner and responsible veterinarian at Doc Side Veterinary Medical Center (License No 30-031).

This Order confirms the intention of Dr. Herling to resolve Docket No. 22-43 without the issuance of formal charges. Before agreeing to this Order, Dr. Herling was advised in writing of his due process rights in this matter, including the right to receive formal notice of charges, request a hearing, retain legal counsel, and all other rights under Agric. § 2-311. By mailing payment of the civil penalty to the Board, Dr. Herling agreed to the terms and conditions set forth in this Civil Penalty Final Order, including the finding(s) that he violated the Maryland Veterinary Practice Act, Md. Code Ann., Agric. §§ 2-301 - 2-316, ("Veterinary Practice Act") and related Code of Maryland Regulations ("COMAR") 15.14.01 – 15.14.17.

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 and related COMAR 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. § 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. Agric. § 2-310.1. In setting the amount of a civil penalty, the Board shall consider the severity of these violations, the good faith of the violator, and the history of prior violations, as well as the Board's 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. Herling, after having the opportunity to seek the advice of legal counsel, voluntarily waived his right to formal charges and a hearing and agreed to pay the civil penalty of $300. In so doing, Dr. Herling acknowledges that the Board has sufficient evidence to find, as fact, and conclude as a matter of law that he violated COMAR 15.14.01.12C (Expired Medications) as follows:

1. Dr. Herling is a veterinarian who has been licensed to practice in Maryland since 1973. Dr. Herling is the owner and responsible veterinarian at a veterinary hospital known as Doc Side Veterinary Medical Center ("Hospital") (License No. 30-031) located at 1705 Bank Street, Baltimore, MD 21231. Dr. Herling has no disciplinary history with the Board.

2. On October 22, 2021, during an annual inspection of the Hospital, Board Inspector, Ellen James ("Inspector James"), found at least twenty-eight (28)) expired medications that were mixed with the Hospital's working stock of non-expired drugs. The expired medications were found in several areas of the Hospital, including the treatment and preparation rooms.

3. Inspector James issued a Veterinary Hospital Inspection Report reflecting her inspection findings on October 22, 2021, and a COMAR Violation Sheet reflecting the expired medication violation found.

4. COMAR 15.14.01.12-3A prohibits veterinarians from administering expired medications to an animal, and COMAR 15.14.01.12-3C requires that expired medications be packaged and kept separate and apart from unexpired medications until disposal of such medications. Dr. Herling violated the latter regulation by allowing expired medications to be stored with non-expired medications in the working stock of the Hospital at which he serves as the responsible veterinarian.

Taking all the facts and circumstances into consideration, including the nature of the violation, the veterinarian's lack of prior discipline, and the veterinarian's good faith effort to resolve this matter promptly, the Board concluded that the most reasonable and appropriate resolution in this matter was a civil penalty only.

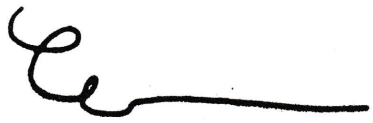
ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 19th day of January, 2022, by the Maryland State Board of Veterinary Medical Examiners, **ORDERED:**

(a) That for the violation of Md. Code Ann., Agric. § 2-310(8) and COMAR 15.14.01.12-3C, Irvin E. Herling, DVM, is assessed a civil penalty of $300; and

(b) The Board acknowledges payment of the civil penalty by check received on December 20, 2021.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS



Elizabeth Callahan, DVM
President
State Board of Veterinary Medical Examiners
Maryland Department of Agriculture
50 Harry S. Truman Parkway, Room 102
Annapolis, Maryland 21401
Telephone: 410.841.5862