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	*	
LEE MILLER, D.V.M.	*	DOCKET NO. 99-007
LICENSE NO. 985	*	

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CONSENT AGREEMENT

This Agreement, dated this 7 of Sept, 1999, is between the State Board of Veterinary Medical Examiners ("Board") and Lee Miller, D.V.M., License No. 985. The Agreement concerns the Board's allegation that Dr. Miller violated certain laws and regulations governing the practice of veterinary medicine in this State (the "Veterinary Practice Act"). 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, the Board charged that Dr. Miller did not conduct himself in relation to the public, colleagues and clients so as to merit their full confidence and respect, a violation of COMAR 15.14.01.04, and that he failed to conform to those minimum standards of care and treatment customary among veterinarians in this State, a violation of COMAR 15.14.01.04. These charges were based on the allegation that Dr. Miller failed to take the necessary steps to ascertain that he was euthanizing the correct animal.

On August 13, 1999, Dr. Miller received a copy of the Charging Document and the Notice of Agency Action by certified mail. In the Board's Notice, Dr. Miller was given the option of either contesting the charges filed against him, or accepting the Board's proposed sanction, that being a civil penalty in the amount of $300.00. Dr. Miller chose to accept the proposed sanction.

FINDINGS OF FACT

On or about February 1, 1999, Dr. Miller assumed the care of: (1) a female Husky/Malamute, approximately 17 years old, named "Caroline," and (2) a female domestic short hair, approximately 7 years old, named "Gray Kitty." Both animals were owned by Joan and Jim McCrumb.

Earlier that day, Mr. McCrumb had visited Dr. Miller's New Market office to arrange for Dr. Miller to make a house call in order to euthanize Caroline who, on that date, was in poor health and unable to walk without assistance. This request, which Dr. Miller agreed to perform, was communicated to him via the radio. Mr. McCrumb recalls that a member of Dr. Miller's staff informed Dr. Miller that the McCrumb's elderly dog was to be euthanized. The house call was scheduled for 3 p.m. that day

Later that day, Ms. McCrumb contacted Dr. Miller's office to arrange for him to administer a FVRCP/FEVL vaccination to their cat Gray Kitty. When Dr. Miller had not arrived at the McCrumb home by 4 p.m., Ms. McCrumb contacted his office and was told that he had gone to another office to obtain the cat vaccination and that he was still coming.

When Dr. Miller later arrived at the McCrumb home, their other dog, Rwanda, a female approximately three years old, was loose, running in their yard. When Dr. Miller approached Rwanda, he was informed that this was not the dog to be euthanized.

After entering the home, Mr. McCrumb requested that Gray Kitty be treated first. Instead of vaccinating Gray Kitty, however, Dr. Miller euthanized the cat, apparently under the mistaken impression that the owners wanted this procedure performed on their cat. After learning of the mistake, Dr. Miller apologized to the owners.

Although Dr. Miller customarily requires an owner to sign a form authorizing him to perform this procedure before undertaking it, he did not do so in this instance. When Mr. McCrumb was in Dr. Miller's office earlier that morning, no one instructed him to complete this form. Likewise, when Dr. Miller was at the McCrumbs' home, he did not instruct them to complete this form before undertaking this procedure. Indeed, before undertaking this procedure, Dr. Miller took no steps to ascertain that he was euthanizing the correct animal.

Subsequently, with the McCrumbs' permission, Dr. Miller did euthanize Caroline.

CONCLUSIONS OF LAW

Dr. Miller failed to take the necessary steps to ascertain whether he was euthanizing the correct animal before undertaking this procedure, and thus, did not conduct himself in relation to his patient, and its owners, so as to merit their full confidence and respect, a violation of COMAR 15.14.01.04, and likewise, failed to conform to those minimum standards of care and treatment customary among veterinarians in this State, a violation of COMAR 15.14.01.07.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 26th day of August, 1999, by the State Board of Veterinary Medical Examiners:

ORDERED that Dr. Miller pay a **CIVIL PENALTY** (fine) in the amount of Three Hundred Dollars ($300). (The Board acknowledges receipt of a check in the amount of $300 from Dr. Miller.)

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

9/23/99
Date

Donald M. Carman, D.V.M.
President, State Board of Veterinary
Medical Examiners
50 Harry S. Truman Parkway
Annapolis, MD 21401

CONSENT

I, Lee Miller, D.V.M., acknowledge that I have 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 Order, consisting of four (4) pages.

I acknowledge the validity of this Consent Order 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 Order.

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

I sign this Consent Order without reservation as my voluntary act and deed, and I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

9/10/99
Date

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

NOTARY

STATE OF Maryland

CITY/COUNTY OF Carroll

I HEREBY CERTIFY that on this 10 day of Sept, 1999, 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 Order was his voluntary act and deed.

AS WITNESS my hand and notarial seal.

Tina M. Brauning
Notary Public

My Commission Expires: 8-11-00

TINIA MARIE BRAUNING
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires August 11, 2000

RECEIVED