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

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| IN THE MATTER OF THE COMPLAINT OF | * | |
| THE STATE BOARD OF VETERINARY | * | |
| MEDICAL EXAMINERS AGAINST | * | |
| BONITA CONARD, V.M.D. | * | DOCKET NO. 97-054 |
| LICENSE NO. 3125 | * | |

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## CONSENT ORDER

The State Board of Veterinary Medical Examiners ("Board") charged that Bonita Conard, V.M.D., License No. 3125, 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 $5000 (Md. Code Ann., Agric. Art., §2-310.1).

More specifically, the Board charged that Dr. Conard did not conduct herself 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. This charge was based on the following allegations:

(1) Dr. Conard made a new entry to a treatment record of an animal under her care without indicating that the new entry constituted an amendment or alteration to the treatment record; and

(2) Dr. Conard made a false or erroneous entry to a treatment record of an animal under her care.

## FINDINGS OF FACT

1. Dr. Conard is licensed to practice veterinary medicine in this State, and has been since July, 1986. Excepting this matter, no formal disciplinary action has

been taken against her.

2. On October 2, 1997, Dr. Conard undertook the care of "Tootsie", a nine year old female Yorkie, owned by Ms. Gladys Nadolny. At that time, Dr. Conard was employed as a veterinarian at the Rosedale Animal Hospital, a facility located in Baltimore, Maryland. On presentation, Dr. Conard noted that the dog's chief complaint was diarrhea and vomiting. With the owner's consent, Dr. Conard admitted Tootsie into the hospital and ran a blood chemistry profile and CBC on the dog.

3. On October 3, 1997, Dr. Conard again ran a blood chemistry profile on Tootsie. Dr. Conard also took radiographs and performed a urinanalysis of the dog. On that date, Dr. Conard noted in Tootsie's treatment record: "Lymphangiectasia = most likely diagnosis without biopsy." Later that day, Dr. Conard discharged Tootsie into Ms. Nadolny's care, advising her to place the dog on a special diet.

4. On October 27, 1997, Ms. Nadolny sought a second opinion about her dog's recent health problems and placed Tootsie under the care of Dr. Robert F. Brown, a veterinarian associated with the Fullertown Animal Hospital. On that date, Ms. Nadolny contacted Rosedale Animal Hospital, spoke to Ms. Michelle Kelly, the office manager, and requested Ms. Kelly to send Dr. Brown a copy of Tootsie's treatment record. Ms. Nadolny also noted that Dr. Brown had detected a large mass in Tootsie's abdomen when he physically examined the dog; and questioned why Dr. Conard was not able to have done the same.

5. That same day, October 27, 1997, Ms. Kelly sent Dr. Brown a copy of Tootsie's treatment record via facsimile mail. After completing this task, Ms. Kelly placed the file on Dr. Conard's desk with a note indicating that Ms. Nadolny was upset and that Dr. Conard should contact her.

6. Some time after speaking to Ms. Kelly about this matter, Dr. Conard amended or altered Tootsie's treatment record. More specifically, under the October 3, 1997 entry date, Dr. Conard added the following two statements: (1) "Recommended referral to Dr. [Mark] Hitt +_ biopsy, O [owner] declined at this time"; and (2) "3 PM Spoke t[o] Dr. Hitt concerning dia[gnosis]; recommended biopsy to confirm - agree however $'s concern and trans[portation]." Under the next day's entry date, Dr. Conard added the following statement: "PM Spoke t[o] O [owner] on release, recommended biopsy, referral. Transportation major problem."

7. Dr. Conard did not date these new entries; nor did she initial or sign them; nor provide any other indications that these new entries constituted an amendment or alteration to Tootsie's treatment record.

8. It is and has been the regular course of business of veterinarians practicing in this State to record in an animal's treatment record pertinent information that

pertain to the animal's health at or near the time that the matter to be recorded is observed or noted. Such information as a general rule would include whether a biopsy or referral was recommended by the veterinarian. If a treatment record is amended, it is and has been the regular course of veterinarians practicing in this State to note that new entry as an amendment - *e.g.*, by initialing and dating the new entry.

9. Dr. Mark Hitt does not recall talking to Dr. Conard about Tootsie's case. Dr. Hitt is associated with the Chesapeake Veterinary Referral Center ("CVRC"), a veterinary hospital located in Annapolis, Maryland. If Dr. Conard had telephoned Dr. Hitt on October 3, 1997, that call should have been noted either on (1) the October 1997 long-distance telephone bill that Rosedale Animal Hospital received from Bell Atlantic, or (2) the October 1997 telephone bill that CVRC received from AT&T for its 1-800 telephone line. Neither of these telephone bills, however, show that a telephone call was placed from the Rosedale Animal Hospital to CVRC on October 3, 1997; nor do they show that such a call was placed during the October 4-7, 1997 time period. On the other hand, CVRC's telephone bill does show that such a call was placed on October 8, 1997; and Rosedale Animal Hospital's telephone bill shows that a similar call was placed on October 16, 1997.

10. Ms. Nadolny maintains that Dr. Conard never recommended that a biopsy be performed on Tootsie. Ms. Nadolny's son, Raymond Stern, who accompanied his mother on each hospital visit, would support his mother's position. Conversely, Dr. Conard maintains that she did recommend a biopsy for Tootsie and would call witnesses to support her position, including Elizabeth Reynolds, who was an employee of Rosedale Animal Hospital during this period of time.

11. On October 27, 1997, Dr. Robert Brown, with Ms. Nadolny's consent, did perform surgery on Tootsie to remove the mass that he had detected. On October 28, 1997, Tootsie died.

## CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that Dr. Conard did not conduct herself 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, when she made a new entry to a treatment record of an animal under her care without indicating that the new entry constituted an amendment or alteration to the treatment record.

While the Board has agreed not to proceed against Dr. Conard on the charge that she made a false or erroneous entry, it must point out one apparent error Dr. Conard made to Tootsie's treatment record when she amended it, to wit: Under the October 3, 1997 entry date, Dr. Conard amended Tootsie's treatment record to

note that she had spoken to Dr. Hitt on that date; the telephone records from the two hospitals, however, do not support this assertion - albeit they do show that such a call may have been placed on October 8 and/or October 16, 1997. The Board makes this point simply to caution Dr. Conard in the future to make every effort to record pertinent information pertaining to the animal's health **at or near the time that the matter to be recorded actually is observed or noted.** This is the regular course of business of veterinary practice in this State; and it is the standard because it is simply good practice to do so. Attempting to create a record weeks after the event occurs is difficult and certainly prone to error. Simply put, such entries are not as reliable as those made contemporaneous with the event, or shortly thereafter. This is just one reason why a veterinarian who has amended a treatment record must initial and date that entry as an amendment.

## ORDER

Based on the foregoing Findings of Fact and Conclusions of Law (finding that Dr. Conard violated COMAR 15.14.01.04 in making a new entry to a treatment record of an animal under her care without indicating that the new entry constituted an amendment or alteration to the treatment record), it is this 25th of March, 1999, by the State Board of Veterinary Medical Examiners, **ORDERED**:

1. That Dr. Conard pay a civil penalty in the amount of Five Hundred Dollars ($500.00) within thirty (30) days from receipt of this Order (payable to the State Board of Veterinary Medical Examiners); and

2. That the remaining charge alleging that Dr. Conard falsified the treatment record of an animal under her care is dismissed.

3/25/99
Date

Donald M. Carman, D.V.M.
President
State Board of Veterinary
Medical Examiners

## CONSENT

I, Bonita Conard, V.M.D., acknowledge that I am represented by legal counsel, and 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

__ 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 after consulting with counsel, and I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

3/16/99
Date

Bonita Conard, DMD
Bonita Conard, ~~D.V.M.~~ DMD
Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF Harford

I HEREBY CERTIFY that on this 16th day of March, 1999, before me, a Notary Public of the State and City/County aforesaid, personally appeared Bonita Conard, D.V.M. and made oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS my hand and notarial seal.

Carol Carroll Karwoowski

My Commission expires: 3/01/2001