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

IN THE MATTER OF:	*	
MONICA N. KINNEY, D.V.M. LICENSE NO. 7660	*	DOCKET NO. 20-10A
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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order ("Consent Agreement"), dated this 25th day of January 2022, is between the State Board of Veterinary Medical Examiners ("SBVME" or "Board") and Monica N. Kinney, D.V.M. ("Dr. Kinney"), License No. 7660. This Consent Agreement resolves the charge filed by the SBVME on January 22, 2021, in Docket No. 20-10A, alleging that Dr. Kinney violated the Veterinary Practice Act, Maryland Code Ann., Agric. §§ 2-301 – 2-316 and related Code of Maryland Regulations ("COMAR") 15.14.01 – 15.14.17, as set forth herein.

On January 28, 2021, Dr. Kinney, through legal counsel, requested a hearing on the charges. Thereafter, the parties reached an agreement to resolve this case under the terms and conditions reflected in this Consent Agreement. By signing this Consent Agreement, Dr. Kinney agrees to waive her right to a hearing on the charges in Docket No. 20-10A and further agrees to the terms and conditions of this Consent Agreement.

Under Maryland law, the SBVME 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 the provisions of the Veterinary Practice Act and related COMAR regulations. As part of its authority, the SBVME "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 rules and regulations after receiving a license." Agric. § 2-310(8). The Board may also 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 the violation, the good faith of the violator, and any history of prior violations, as well as the Board's civil penalty standards. Md. Code Ann., State Gov't § 10-1001(b); COMAR 15.14.11 (Civil Penalty Standards for Veterinarians).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Monica N. Kinney, D.V.M., License Number 7660, by entering into and signing this Consent Agreement, having had the opportunity to seek advice of counsel, agrees to the provisions of this Consent Agreement, acknowledging that the SBVME has sufficient evidence to find, as fact, and to conclude as a matter of law that Dr. Kinney violated COMAR 15.14.01.01 (Professional Judgment and Practice) as follows:

1. Dr. Kinney is a veterinarian licensed to practice in the State of Maryland since 2016. Dr. Kinney was, at the time of the incidents described herein, an associate veterinarian at Waldorf Animal Hospital d/b/a Waldorf Animal Clinic (License No. 08-024) ("Hospital"), located at 2242 Old Washington Road, Waldorf, MD 20601.

2. On June 1, 2019, Diana Vitiellis ("Ms. Vitiellis" or "Owner") brought Cooper, her 10-year-old male Morkie, to the Hospital for an evaluation of right hind limb lameness. At all times relevant to the events in this case, the Owner was an employee at the Hospital.

3. Dr. Kinney was Cooper's treating veterinarian on June 1, 2019. After Dr. Kinney performed a physical examination, radiographs were taken of the pelvis and right hind limb to assess the cause of lameness. The caudal abdomen was visible on the radiograph, and an incidental finding was the presence of multiple uroliths in the bladder. Dr. Kinney recommended cystotomy surgery, which was later scheduled by the Owner.

4. On June 26, 2019, Cooper presented at the Hospital for the cystotomy to be performed by Dr. Kinney. Before surgery, Dr. Kinney ordered a complete blood count ("C.B.C.") and chemistry panel, which Dr. Kinney found to be unremarkable. Dr. Kinney did not recommend repeat radiographs on the day of surgery, but instead relied upon the radiographs taken three weeks earlier. During the surgery, Dr. Kinney

removed multiple uroliths; however, she removed fewer uroliths than had been visible in the radiographs taken previously. An intra-surgical radiograph was taken by moving Cooper to the radiograph room and returning him to the surgery suite before closing. There is little in the medical record that describes how that transfer was done, including any precautions taken to protect the incision from infection. One of the only specific precautionary measures noted in the record is a change of gloves. The record does not reflect whether Cooper was re-draped when he returned to the surgical table. Dr. Kinney has advised the Board that when Cooper was taken to radiology, his abdomen was packed with saline-soaked sterile gauze prior to transport, and the surgical site remained draped during transport and surgery. However, the record offers no support for that statement.

5. The intra-surgical radiographs confirmed that there were uroliths remaining in the urethra. Dr. Kinney made multiple efforts to remove them or flush them back into the bladder, but she could not get them all. After she completed the surgery, Dr. Kinney updated the Owner's father and recommended that if Cooper did not begin urinating, he should be evaluated for possible urethrostomy by a board-certified surgeon at another veterinary facility.

6. Dr. Kinney had a text message exchange with the Owner the evening of June 26, 2019. The Owner informed Dr. Kinney that the Owner and her family had decided to accept the surgical referral. However, the Owner did not immediately act on that recommendation.

7. The Owner brought Cooper back to the Hospital on June 27, 2019 because Cooper was lethargic and dribbling urine. On this date, Megan Noyes, D.V.M. ("Dr. Noyes") (License No. 7527), was Cooper's treating veterinarian. Dr. Noyes took radiographs, which showed uroliths still in the urethra. She flushed them back into the bladder and removed 15 mls. of urine. Subsequent radiographs showed that the uroliths were in the bladder. Cooper returned home with his owner.

8. Later the same day, on June 27, 2019, the Owner brought Cooper back to the Hospital because he was still lethargic and was dribbling urine. Another set of radiographs was taken, which showed that the uroliths remained in the bladder and that the bladder was still mostly empty.

9. During Cooper's visits on June 27, 2019, Dr. Noyes and Dr. Kinney consulted with each other. They decided that a second surgery could be performed to remove the last of the uroliths in Cooper's bladder.

10. On June 29, 2019, Cooper returned to the Hospital for the second surgery, which was to be performed by Dr. Noyes. Dr. Kinney took pre-op radiographs to confirm the uroliths still were in the bladder. Dr. Noyes opted not to perform new bloodwork before the surgery but instead reviewed blood work taken on June 26, 2019, and determined it was appropriate to proceed with the surgery. When she removed the original skin and subcutaneous ("sq.") sutures, Dr. Noyes found purulent discharge through the sq. tissues. Upon exploring the abdomen, Dr. Noyes found multiple friable adhesions and noted in the record that the bladder was markedly red diffusely.

11. Before proceeding further, Dr. Noyes consulted with Dr. Kinney, and Dr. Kinney agreed with Dr. Noyes' assessment that opening the sutures or making any new incision in the bladder was too risky due to the level of inflammation. Dr. Noyes cleaned the infection, debrided the tissue as necessary, and closed. Dr. Noyes did not culture the purulent discharge.

12. Over the next three days, Cooper remained lethargic and anorexic.

13. On July 1, 2019, the Owner took Cooper to another veterinary facility, namely, Waldorf Emergency Care ("WECARE") (License No. 08-00223). Radiographs were taken, which showed two uroliths in Cooper's bladder and more in the urethra. The attending veterinarian at WECARE flushed three uroliths from the urethra into the bladder.

14. The next day, July 2, 2019, while at WECARE, Cooper was anesthetized, and his incision was opened and debrided so that it could be cleaned and heal as an open wound.

15. On July 5, 2019, another veterinarian at WECARE performed an emergency abdominal exploratory surgery, because Cooper's abdominal wall was breaking down with infection. The bladder was necrotic on the dorsal surface, and the previous cystotomy site was breaking down. Several hours later, a contrast cystogram revealed leakage from Cooper's bladder. After discussing the findings and Cooper's prognosis with the WECARE attending veterinarian, the Owner made the difficult decision to euthanize Cooper.

16. On September 5, 2010, the Owner filed a complaint with the Board arising from Cooper's care at the Hospital. The Board opened a case and conducted an investigation, which included obtaining and reviewing medical records.

17. After its review, the Board found that Dr. Kinney provided substandard care.

18. COMAR 15.14.01.07A (Professional Judgment and Practice) provides that: "[a] veterinarian, when caring for and treating a patient, shall conform to those minimum standards of care and treatment which are customary among veterinarians in this State." Dr. Kinney failed to satisfy the applicable standard in her care and treatment of Cooper when she failed to repeat radiographs before she performed the first surgery on Copper and instead relied on radiographs taken three weeks prior. The standard of care required her to re-take the radiographs before surgery to ascertain the location and number of uroliths, not only in the bladder, but also in the urethra.

19. An additional deficiency in the care provided by Dr. Kinney arises from Cooper's transfer from surgery to radiology for intraoperative radiographs. The medical record offers no detail about the transfer, including any measures taken to prevent infection during the transfer of the patient to and from a non-sterile environment. Failure to re-drape may have allowed the wound to be contaminated, causing or contributing to infection.

20. Dr. Kinney also provided substandard care in her role as a consultant to Dr. Noyes during the second surgery. Dr. Kinney and Dr. Noyes failed to recognize that there were more uroliths in the urethra in the radiographs than were removed, either because they did not count the stones correctly or because they misinterpreted the radiographs.

Taking the facts and circumstances into consideration, including the nature of the violation(s), the veterinarian's lack of disciplinary history, her acceptance of responsibility and good faith cooperation in resolving this matter, the Board concluded that the most reasonable and appropriate resolution includes the sanctions set forth below.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 25th day of January, 2022, by the State Board of Veterinary Medical Examiners, ORDERED that:

(a) For violating COMAR 15.14.01.07A (Professional Judgment and Practice), in her care and treatment of Cooper, a 10-year-old male Morkie owned by Diana Vitiellis, by not repeating radiographs before performing Cooper's first surgery on June 26, 2019, by failing to prepare documentation from which the Board could conclude that she took adequate precautions to protect Cooper's incision from infection when he was transferred from surgery to perform radiographs and transferred back again to complete the surgery; and while assisting with or consulting on the surgery performed by another veterinarian, failing to count the bladder stones to ensure that they were all removed, or in the alternative, failing to interpret the radiographs correctly to account for all of the stones and ensure removal, Dr. Kinney is assessed a civil penalty of $3,000;

(b) The civil penalty shall be paid with sixty (60) days by check payable to the Maryland Department of Agriculture ("MDA") with the notation "SBVME – 20-10A" and sent to the MDA at 50 Harry S. Truman Parkway, Annapolis, MD 21401;

(c) Dr. Kinney shall serve a period of probation of six months. While on probation, the veterinarian shall obey all laws and regulations governing the practice of veterinary medicine in this State and the conditions of this Consent Agreement. Violation of probation means that the veterinarian is charged and the Board ultimately concludes that the veterinarian violated the Veterinary Practice Act, related regulations, or the terms of this Consent Agreement during the period of probation. Violation of probation may result in additional penalties, following notice and an opportunity to be heard; and

(d) As a condition of probation, Dr. Kinney shall complete six hours of continuing education ("CE") which has been approved by the Board in advance, in clinical

pathology, interpreting bloodwork, and/or urinary/surgical management (bladder stones); The CE shall be completed and verification of completion provided to the Board within three (3) months from the date of this Order. Requests for pre-approval and verification of CE completed should be sent by email to Vanessa Orlando, Executive Director, at mda.veterinaryboard@maryland.gov. Proof from the CE provider shall include the veterinarian's name, the number of hours of CE completed, the topics covered, and the date(s) the CE was given. This CE will not count toward the 18 credit hours required annually for re-registration of the veterinary license. The Board may audit CE records for relevant years to verify completion of the annual CE requirements and the CE required by this Consent Agreement.

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland, this 25th day of January, 2021. 2022

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

Elizabeth Callahan, D.V.M.
President
State Board of Veterinary Medical Examiners
Maryland Department of Agriculture

CONSENT

I, Monica N. Kinney, D.V.M., acknowledge that I have had an opportunity to consult with counsel before entering into this Consent Agreement. By this Consent, I hereby acknowledge the legal authority and jurisdiction of the Board over this matter to issue and enforce this Consent Agreement. To resolve this matter, I agree to accept and submit to the foregoing Consent Agreement, consisting of 8 pages. I sign this Consent Agreement without reservation as my voluntary act and deed after having had an opportunity to consult with counsel. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Agreement.

Date: 1/13/2022

Monica N. Kinney, DVM

Monica N. Kinney, D.V.M.