

IN THE APPEAL OF:

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BEFORE THE

HOOMAN A. POOYA, D.V.M.

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SECRETARY OF AGRICULTURE

License No. 5970, appealing
The Default Decision and Order
of the State Board of Veterinary
Medical Examiners

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Docket No: 13-17C

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DECISION AND ORDER OF THE SECRETARY OF AGRICULTURE

This is an appeal to the Secretary of Agriculture by a veterinarian, Dr. Hooman A. Pooya (Dr. Pooya), from a Default Decision and Order of the State Board of Veterinary Medical Examiners (Board). The Board found that Dr. Pooya violated COMAR 15.14.01.04 professional conduct by failing to obtain the consent from a pet owner prior to surgery; COMAR 15.14.01.07 for failing to provide a certain minimum standard of care for Heather Billings' dog, "Raggae" and COMAR 15.14.01.10 record keeping by failing to adequately maintain medical records. The Board imposed a \$2,000 civil penalty. The Board issued the Default Decision and Order on February 20, 2014, after Dr. Pooya failed to request a hearing.

The Secretary of Agriculture acknowledged by letter dated March 21, 2014, Dr. Pooya's appeal and written statement stating his opposition to the Board's decision. With a 14 day response time, the Secretary offered Dr. Pooya the opportunity to provide other information on his appeal and to appear in person to discuss his appeal. Dr. Pooya did not respond.

In investigating this matter, the Secretary of Agriculture reviewed the record before the Board. Now, as explained below, having completed this investigation, the Board's Default Decision and Order, dated February 20, 2014, is affirmed.

FINDINGS OF FACT

The record shows that the Board, pursuant to State Gov't Art. §10-207, Annotated Code of Maryland, gave Dr. Pooya reasonable notice of the disciplinary action being taken against

him. Specifically, it shows that the Board sent a charging document and a notice of agency action to Dr. Pooya at his hospital by certified mail, return receipt requested, explaining that Dr. Pooya had the right to a hearing before the Board, if requested within ten days from receipt of the charging document. As an alternative, that notice stated that Dr. Pooya could waive a hearing and accept the proposed sanction, a \$2000 civil penalty. The notice of agency action also notified Dr. Pooya that his failure to respond to the Board's charges within ten calendar days could result in the Board issuing an order to impose the proposed sanction. The record reflects that on November 25, 2013, the Board was notified by the United States Postal Service that the Board's charges and notice of agency action were delivered to Dr. Pooya's hospital on November 20, 2013. After more than ten days from November 20, 2013, Dr. Pooya notified the Board that he disputed the Board's charges but did not request a hearing, stating that an attorney would be in contact with the Board. When no response was received, the Board's attorney Judith Plymyer sent an email to Dr. Pooya on December 5, 2013, to clarify whether a hearing had been requested. She offered to speak to Dr. Pooya's lawyer. After no response from Dr. Pooya or his counsel, the Board issued a Memorandum and Order of Default, notifying Dr. Pooya that he had fifteen days to file a motion to vacate the order. On January 23, 2014, the Board received confirmation from the United States Postal Service for the delivery of the notice of agency action and charge at Dr. Pooya's hospital on January 17, 2014.

After fifteen days passed from the Order of Default, and after having not received a motion to vacate from Dr. Pooya or his attorney, the Board issued a Default Decision and Order dated February 20, 2014.

In his written statement to the Secretary, Dr. Pooya failed to provide any reasons for his failure to respond to the Board's notice of disciplinary action against him; and likewise again

failed to state with any specificity the legal and factual basis for his defense to the Board's action against him. Dr. Pooya has no one to blame but himself for the Board's Default Decision and Order dated February 20, 2014.

CONCLUSIONS OF LAW

Since Dr. Pooya did not request a hearing and exhaust the available process and procedure before the Board after it notified him of this right, he is not entitled to relief and cannot maintain this appeal.

ORDER

Having investigated this matter, it is this 24th of June, 2014, by the Secretary of Agriculture, ORDERED:

That the State Board of Veterinary Medical Examiner's Default Decision and Order, Docket No. 13-17C, dated February 20, 2014, against Dr. Hooman A. Pooya, D.V.M., is AFFIRMED, and Dr. Pooya's appeal is DISMISSED.

Earl Hance / MEA

Earl Hance
Secretary of Agriculture

APPEAL RIGHTS

You have the right to appeal this decision within 30 days to the Circuit Court of the county where you maintain your office as provided by Chapter 200 under Title 7 (Judicial Review of Administrative Agency Decisions) of the Maryland Rules of Procedure.

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

IN THE MATTER OF:

*

HOOMAN A. POOYA, D.V.M.

*

Docket No. 13-17C

LICENSE NO. 5970

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DEFAULT DECISION AND ORDER

Under State law, the State Board of Veterinary Medical Examiners (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, Agriculture Article Sections 2-301 – 2-316, Annotated Code of Maryland and related Code of Maryland Regulations (COMAR). Under this authority, 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 rules and regulations after receiving a license[.]” Md. Code Ann., Agric. Section 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. Md. Code Ann., Agric. Section 2-310.1.

FINDINGS OF FACT

1. Hooman A. Pooya, D.V.M. (Dr. Pooya), License Number 5970, is a licensed veterinarian in Maryland and has been at all times relevant to this disciplinary action. Dr. Pooya has a prior disciplinary history with the Board, which was resolved by consent agreement in Docket Number 11-08A in April 2012 and modified in November 2012. Dr. Pooya is employed as a veterinarian at Greenbriar Veterinary Hospital (Hospital), located at 3051 Thurston Road in Urbana, Maryland 21704.
2. On or about August 20, 2012, Heather Billings presented her eleven-year-old male Lab-Husky mix, “Raggae,” for a 10 a.m. consultation for possible surgery at a veterinary hospital known as Celebrie Veterinary Hospital (Hospital), located at 12301 Bel Air Road, Kingsville, Maryland 21087.

3. Ms. Billings remained in the Hospital waiting room until surgery was completed. Ms. Billings has no recollection of a conversation with any veterinarian in which her dog's condition and treatment options were discussed before surgery.
4. On or about August 20, 2012, Dr. Cecelia Garrett, owner of the Hospital, prepared the dog for surgery prior to Dr. Pooya's arrival at the Hospital. The Hospital medical record does not reflect any physical examination of the dog prior to surgery.
5. On or about August 20, 2012, Dr. Pooya arrived at the Hospital sometime after 10 a.m. and passed through the waiting room before performing surgery on Ms. Billings' dog.
6. On or about August 20, 2012, Dr. Pooya either failed to obtain consent from Ms. Billings prior to surgery or, in the alternative, if Dr. Pooya did obtain consent orally, he failed to document the conversation in the dog's medical record.
7. On or about August 20, 2012, Dr. Pooya either failed to perform a physical examination of the dog prior to surgery or, in the alternative, if Dr. Pooya did perform an examination, he failed to document the examination in the dog's medical record.
8. On November 18, 2013, the Board formally charged Dr. Pooya with failing to merit the full confidence and respect of the public by failing to obtain consent from a pet owner prior to surgery, a violation of COMAR 15.14.01.04 Professional Conduct, or, in the alternative, by failing to adequately maintain medical records, a violation of COMAR 15.14.01.10 Record Keeping; and by failing to provide a certain minimum standard of care for Heather Billings' dog, "Raggae," an 11-year-old male Lab-Husky mix, presented for surgery consultation on or about August 20, 2012 at Celebrie Veterinary Hospital, 12301 Bel Air Road, in Kingsville, Maryland 21087, by failing to perform a physical examination prior to surgery, a violation of COMAR 15.14.01.07 Professional Judgment and Practice or, in the alternative, by failing to adequately maintain medical records, a violation of COMAR Record Keeping.
9. The charging document was sent to Dr. Pooya at his Hospital by certified mail, return receipt requested, with a Notice of Agency Action letter (Notice) explaining that Dr. Pooya had the right to a hearing before the

Board if requested within ten days from receipt of the charging document. In the alternative, the Notice stated that Dr. Pooya could waive a hearing and accept the proposed sanction, a \$2,000 civil penalty. The letter also stated that Dr. Pooya's failure to respond to the charge within ten calendar days might result in the Board issuing an order to impose the proposed sanction. (Exhibit 1 Notice of Agency Action Letter and Charge under the Maryland Veterinary Practice Act).

10. On November 25, 2013, the Board received confirmation from the United States Postal Service of receipt of the Notice and Charge at the Hospital on November 20, 2013.

11. After receiving this Notice, Dr. Pooya sent a letter to the Board, which the Board received on December 3, 2013, more than ten calendar days from November 20, 2013. Dr. Pooya's letter disputed the charge, but did not request a hearing, and stated that an attorney would be in contact with the Board.

12. On behalf of the Board, Assistant Attorney General Judith Plymyer sent an email to Dr. Pooya on December 5, 2013 to clarify whether a hearing had been requested and offering to speak with Dr. Pooya's legal counsel about an informal resolution of the matter.

13. After no response from Dr. Pooya or his legal counsel, the Board issued a Memorandum and Order of Default, sent by certified mail, return receipt requested to Dr. Pooya at the Hospital on January 15, 2014. The Order of Default notified Dr. Pooya that he had fifteen days to file a motion seeking to vacate the order. (Exhibit 2, Order of Default.)

14. On January 23, 2014, the Board received confirmation from the United States Postal Service of receipt of the Notice and Charge at the Hospital on January 17, 2014.

15. On February 4, 2014, Dr. Pooya requested copies of "the aforementioned dockets (Nos. 13-17C and 13-65) as well as my responses" by email to AAG Plymyer, who gave the request to Board Executive Director Laura Downes, custodian of the Board records. Ms. Downes will respond to the request under the Maryland Public Information Act, Md. Code Ann., State Government Sections 10-611 through 10-627.

16 Because more than fifteen days have passed since the Order of Default was issued, and the Board has not received a motion to vacate from Dr. Pooya or his legal counsel, the Board may now issue this Default Decision and Order.

CONCLUSIONS OF LAW

As a licensed veterinarian in Maryland, Dr. Pooya is subject to the jurisdiction of the Board. Dr. Pooya violated certain Board regulations by failing to merit the full confidence and respect of the public when he failed to obtain consent from a pet owner prior to surgery, a violation of COMAR 15.14.01.04 Professional Conduct, or, in the alternative, by failing to adequately maintain medical records, a violation of COMAR 15.14.01.10 Record Keeping; and by failing to provide a certain minimum standard of care for Heather Billings' dog, "Raggae," an 11-year-old male Lab-Husky mix, presented for surgery consultation on or about August 20, 2012 at Celebrie Veterinary Hospital, 12301 Bel Air Road, in Kingsville, Maryland 21087, by failing to perform a physical examination prior to surgery, a violation of COMAR 15.14.01.07 Professional Judgment and Practice or, in the alternative, by failing to adequately maintain medical records, a violation of COMAR Record Keeping.

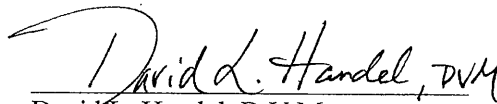
ORDER

Having determined that Hooman A. Pooya, D.V.M., License Number 5970, has not filed a timely response to the Order of Default issued in this matter, and that he has waived his opportunity for a hearing after being afforded notice of the Board's action (including notice of: (1) the charge against him, (2) the proposed sanction, (3) his opportunity to request a hearing, including what he must do to receive a hearing, and (4) the direct consequences for failing to exercise in a timely manner his opportunity for a hearing, namely, the entry of a Default Decision and Final Order and the imposition of the proposed sanction), the Board, on this 20th of February, 2014, **ORDERS** that:

Dr. Hooman A. Pooya shall pay a civil penalty of \$2,000, to "Maryland Department of Agriculture" at 50 Harry S. Truman Parkway, Annapolis, MD, 21401, within 30 days of this Order with the notation "SBVME – 13-17C."

WITNESS the hand and seal of the State Board of Veterinary Medical Examiners, State of Maryland, this 20th day of February, 2014.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS



David L. Handel, D.V.M.

Vice 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

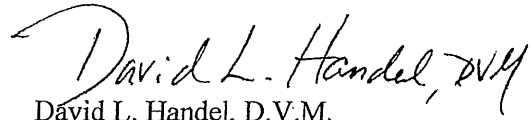


REVIEW RIGHTS

Within 30 days from the date of this decision, an aggrieved party may note an appeal to the Board of Review of the Maryland Department of Agriculture by sending an Order of Appeal to the Chairman of the Board of Review and a copy to the Secretary of Agriculture. The Order of Appeal shall be sent to each by registered or certified mail, return receipt requested (the mailing address for the Chairman and the Secretary is: Maryland Department of Agriculture, 50 Harry S. Truman Parkway, Annapolis, MD 21401). The decision of the Board of Review is the final agency decision for purposes of judicial review under the Administrative Procedure Act.

Hooman A. Pooya, D.V.M.
November 18, 2013
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Sincerely,

A handwritten signature in cursive script that reads "David L. Handel, D.V.M.". The signature is written in dark ink and is positioned above the printed name and title.

David L. Handel, D.V.M.
Vice President

Encl: Charges under the Maryland Veterinary Practice Act

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

IN THE MATTER OF:

*

HOOMAN A. POOYA, D.V.M.

*

DOCKET NO. 13-17C

LICENSE NO. 5970

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CHARGES UNDER THE MARYLAND VETERINARY PRACTICE ACT

The State of Maryland Board of Veterinary Medical Examiners (Board) hereby charges Hooman A. Pooya, D.V.M. (Dr. Pooya), License Number 5970, under the Maryland Veterinary Practice Act, Agriculture Article, Sections 2-301 - 2-316, Annotated Code of Maryland, and related Code of Maryland Regulations (COMAR) 15.14.01 - 15.14.17.

ASSERTIONS OF FACT

1. At all times relevant to these charges, Dr. Pooya was a veterinarian licensed to practice in the State of Maryland, and has been licensed in Maryland since 2006. Dr. Pooya has a disciplinary history with the Board which includes a consent agreement in 2012 regarding unprofessional conduct and record-keeping violations in Docket No. 11-08A. At the time of the incidents described in these charges, Dr. Pooya was the owner and sole practitioner of Hooman A. Pooya, DVM, LLC, Mobile Veterinary Surgical Services.
2. On or about August 20, 2012, Heather Billings presented her eleven-year-old male Lab-Husky mix, "Raggae," for a 10 a.m. consultation for possible surgery at a veterinary hospital known as Celebrie Veterinary Hospital (Hospital), located at 12301 Bel Air Road, Kingsville, Maryland 21087.
3. Ms. Billings remained in the Hospital waiting room until surgery was completed. Ms. Billings has no recollection of a conversation with any veterinarian in which her dog's condition and treatment options were discussed before surgery.
4. On or about August 20, 2012, Dr. Cecelia Garrett, owner of the Hospital, prepared the dog for surgery prior to Dr. Pooya's arrival at the Hospital. The Hospital medical record does not reflect any physical examination of the dog prior to surgery.
5. On or about August 20, 2012, Dr. Pooya arrived at the Hospital sometime after 10 a.m. and passed through the waiting room before performing surgery on Ms. Billings' dog.
6. On or about August 20, 2012, Dr. Pooya either failed to obtain consent from Ms. Billings prior to surgery or, in the alternative, if Dr. Pooya did obtain consent orally, he failed to document the conversation in the dog's medical record.

7. On or about August 20, 2012, Dr. Pooya either failed to perform a physical examination of the dog prior to surgery, or, in the alternative, if Dr. Pooya did perform an examination, he failed to document the examination in the dog's medical record.

CHARGES

I.

Dr. Pooya, License No. 5970, failed to practice the minimal standards of care expected of a veterinarian in this State, a violation of COMAR 15.14.01.07 Professional Judgment and Practice, in his care and treatment of Heather Billings' eleven-year-old male Lab-Husky mix, "Raggae," on or about August 20, 2012 at Celebrie Veterinary Hospital, 12301 Bel Air Road, Kingsville, Maryland 21087, when he failed to perform a physical examination of the dog prior to surgery; or, in the alternative, Dr. Pooya failed to maintain adequate records for a companion animal, Ms. Billings' dog "Raggae," a violation of COMAR 15.14.01.10 Record Keeping, when he failed to document an examination prior to performing surgery on "Raggae."

II.

Dr. Pooya failed to conduct himself in a professional manner, a violation of COMAR 15.14.01.04 Professional Conduct, when he failed to obtain consent from Heather Billings prior to surgery on her eleven-year-old Lab-Husky mix, "Raggae," on or about August 20, 2012 at Celebrie Veterinary Hospital, 12301 Bel Air Road, Kingsville, Maryland 21087; or, in the alternative, Dr. Pooya failed to maintain adequate records for a companion animal, Ms. Billings' dog "Raggae," a violation of COMAR 15.14.01.10 Record Keeping, when he failed to document the consent.

WITNESS the hand and seal of the State Board of Veterinary Medical Examiners, State of Maryland, this 18th day of NOVEMBER, 2013.

STATE BOARD OF VETERINARY MEDICAL EXAMINERS

David L. Handel, DVM

David L. Handel, D.V.M.

Vice President

State Board of Veterinary Medical Examiners

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