

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

IN THE MATTER OF:

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MICHELLE DANNA, D.V.M.

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DOCKET NO. 18-54A&B

LICENSE NO. 6705

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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order ("Consent Agreement"), dated this 27 day of May 2020, is between the State Board of Veterinary Medical Examiners ("SBVME" or "Board") and Michelle Danna, D.V.M. ("Dr. Danna"), License No. 6705. This Consent Agreement resolves the charges filed by the SBVME on or about February 24, 2020 in Docket Nos. 18-54A&B, alleging that Dr. Danna violated the Veterinary Practice Act, Agriculture Article, §§ 2-301 – 2-316, Annotated Code of Maryland, and related Code of Maryland Regulations ("COMAR") 15.14.01 – 15.14.17 set forth herein.

By letter dated February 26, 2020, Dr. Danna, through counsel, notified the Board of her request for a hearing. Thereafter, through her counsel, Dr. Danna engaged in discussions with Board counsel regarding the case, which resulted in Dr. Danna's decision to waive her right 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 adopted pursuant to this law. 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." Md. Code Ann., Agric. Art., §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. Md. Code Ann., Agric. Art., § 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 regulatory 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

Michelle Danna, D.V.M., License Number 6705, by entering into and signing this Consent Agreement, having had the opportunity to seek advice of counsel and while generally and specifically denying liability, 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. Danna violated COMAR 15.14.01.04A & B as set forth herein:

1. At all times relevant to these charges, Dr. Danna was a veterinarian licensed to practice in the State of Maryland, where she has been licensed since 2010. Dr. Danna has no prior disciplinary history with the Board.
2. At the time of the events described in these charges, Dr. Danna was the responsible veterinarian at Boston Street Animal Hospital ("Hospital") (current hospital License No. 03-043), located at 2304 Boston Street, Baltimore, MD 21224.
3. On April 16, 2018, Kristen and Brad Barnett (individually "Ms. Barnett" and "Mr. Barnett," and collectively, "the Barnetts") took their 17-week-old Yorkshire Terrier puppy, Rebel,

to the Hospital to be neutered. The records reflect that the procedure was completed by an associate veterinarian without complications, and Rebel's vital signs remained stable throughout the surgery.

4. After surgery, however, a Hospital veterinary technician who was holding Rebel while Rebel recovered enough to have the endotracheal tube removed, reported to the surgeon that she could no longer hear breaths coming from the endotracheal tube. The surgeon listened for a heartbeat and was able to detect one within five seconds. Soon thereafter, Dr. Danna stepped in, and unable to hear a heartbeat, provided CPR. After three cycles of compressions, Rebel retained normal sinus rhythm and soon after had a heartbeat of 150 beats per minute and a body temperature of 96 degrees. Additional supportive treatments were given, and Rebel continued to be monitored.

5. Shortly thereafter, the associate veterinarian who performed the surgery notified Ms. Barnett that Rebel was having complications in recovery and that she could come in to be with Rebel while he recovered. Ms. Barnett immediately went to the Hospital to be with Rebel. Once there, Ms. Barnett was informed by the associate veterinarian that Rebel would continue to be monitored, but if he was still laterally recumbent by the time the Hospital closed at 6:00 p.m., Rebel should be transferred to an emergency facility for further monitoring.

6. While at the Hospital, Ms. Barnett telephoned her husband to report on Rebel's condition. Mr. Barnett also decided to come to the Hospital to be with Rebel.

7. Mr. Barnett arrived at the Hospital and went into the upstairs room where Rebel was receiving supportive care and monitoring. Upon arrival, Mr. Barnett was upset about Rebel's condition. The associate veterinarian at the Hospital initially spoke with Mr. Barnett, but then left to prepare for another procedure. Dr. Danna, the responsible veterinarian at the Hospital, then stepped in to speak with the Barnetts. While both Barnetts were present, Dr. Danna's communications were primarily with Mr. Barnett. Mr. Barnett questioned the veterinary staff

about Rebel's surgery and stated that he believed Rebel had suffered brain damage due to hospital negligence. Mr. Barnett demanded that Rebel be transferred to an emergency facility and that the medical records be provided to him immediately. Dr. Danna informed Mr. Barnett that the medical records were not immediately available, as the surgery and post-surgical treatment had just concluded, but she promised to provide the records to him once they were finished.

8. The verbal exchange between Dr. Danna and Mr. Barrett became heated, with Dr. Danna increasingly unable to maintain her professional composure. When communicating with Mr. Barnett, Dr. Danna raised her voice, made hostile comments, and refused to relinquish custody of Rebel to the Barnetts at that time. Dr. Danna told the Barnetts that Rebel was not stable enough to be transferred and recommended further monitoring at the Hospital. The Barnetts relented and agreed to allow continued monitoring at the Hospital.

9. That afternoon, Dr. Danna was leaving the Hospital for a previously scheduled commitment. Due to the tense nature of the conversations with Mr. Barnett and the fact that Mrs. Barnett was emotional and visibly upset, Dr. Danna did not want to leave the premises while the Barnetts were still there. Accordingly, Dr. Danna asked the Barnetts to leave the hospital while Rebel recovered. The Barnetts stated that they would prefer to wait in the waiting area of the hospital and refused Dr. Danna's request to leave. Dr. Danna then asked her staff to call the Baltimore City police to escort the Barnetts from the premises. The Barnetts left the Hospital under police supervision.

10. The Hospital does not provide 24-hour care and notifies clients of that status. Toward the end of the Hospital's business hours on April 16, 2018, Dr. Danna attempted to contact the Barnetts to let them know that Rebel was stable enough to be released from the Hospital and taken to an emergency facility for overnight monitoring. However, after several attempts, Dr. Danna was

unable to reach the Barnetts by telephone. Dr. Danna then attempted to arrange for transport to an emergency facility; however, she was unable to arrange for transport. Unable to reach the Barnetts before closing time, Dr. Danna took Rebel home with her for monitoring. The overnight hours were uneventful for Rebel. Rebel remained sedated, but responded to stimulus. Dr. Danna reported that Rebel also urinated, defecated, and was able to maintain sternal position and walked around.

11. The next morning, on April 17, 2018, Dr. Danna brought Rebel back to the Hospital. While he had previously kept food down, according to Dr. Danna, Rebel vomited some bile in the morning. Dr. Danna administered an antiemetic and restarted IV fluid therapy.

12. At approximately 9:00 a.m. that morning, Ms. Barnett emailed Dr. Danna to express concern about Rebel and to seek his release as soon as Rebel was stable enough to be transported. At approximately 9:30 a.m., Mr. Barnett telephoned Dr. Danna and informed Dr. Danna that, based on his observations of Rebel's condition the day before, including the nystagmus he observed, he and his wife were considering euthanizing Rebel. The Barnetts believed that Rebel had suffered "an anoxic brain injury." Dr. Danna stated her belief that the post-anesthesia nystagmus observed was to be expected following administration of ketamine and, in fact, it had resolved fully by the afternoon of April 16. Dr. Danna did not agree to release Rebel to the Barnetts at this time, again stating that Rebel was not stable enough to be discharged. Dr. Danna recommended continued supportive care until Rebel was fully alert, and eating and drinking on his own. She promised to contact the Barnetts when Rebel was stable.

13. Ms. Barnett emailed Dr. Danna again at 10:33 a.m. seeking to pick up Rebel. Ms. Barnett asked Dr. Danna to call her husband to work out the arrangements for Rebel's discharge. Ms. Barnett sent another email at 10:55 a.m., confirming that Ms. Barnett had spoken with the Hospital

front desk and was seeking to pay the bill and have Rebel released from Dr. Danna's care. Ms. Barnett again requested that Dr. Danna call her husband to work out the details.

14. Mr. Barnett placed another call to Dr. Danna at approximately 11 a.m. During this phone call, according to Dr. Danna, Mr. Barnett instructed Dr. Danna to discontinue all supportive care, which included removal of the IV catheter. Dr. Danna advised against discontinuing IV therapy, as Rebel seemed to be responding. By early afternoon, according to Dr. Danna, Rebel ate food on his own. Mr. Barnett said that he would consider other care options, but that he still wanted Rebel released to his custody.

15. According to the Barnetts, throughout the day on April 17, 2019, Dr. Danna refused to release Rebel to them, or at least, refused to release Rebel without imposing conditions on the Barnetts. The Barnetts were presented with several versions of a written agreement for their signature. One version of the agreement sought the Barnetts' promise not to euthanize Rebel, or, if they opted to euthanize, sought their promise to first contact Dr. Danna to give her the opportunity to take custody of Rebel. The Barnetts responded by stating that any decision about euthanasia was theirs alone as owners, and they were not comfortable signing any version of the written documents presented. The Barnetts, based on Dr. Danna's communications and demeanor, believed that Dr. Danna was refusing to release Rebel to the Barnetts unless they signed the documents. Dr. Danna, on the other hand, contends that rather than refusing to release Rebel, she was strongly recommending that the Barnetts continue IV support and have Rebel transferred to an animal ER facility of the Barnetts' choice.

16. From the Barnetts' perspective, Dr. Danna had been hostile and unprofessional in her communications with them since the previous day and they felt powerless to regain control of Rebel's care. At times, Dr. Danna raised her voice to a level that approached screaming. Unsure

about the next step, the Barnetts called the State Board of Veterinary Medical Examiners (“Board”) to report that Dr. Danna was refusing to release their dog and to ask for assistance. Board staff contacted Baltimore City Animal Control and asked for help with the situation. After an Animal Control employee spoke with both parties, Dr. Danna agreed to release Rebel to Ms. Barnett, with the IV catheter intact, to be transferred to an emergency facility.

17. The Barnetts paid their bill at the Hospital and picked Rebel up. Ms. Barnett took Rebel to the Emergency Veterinary Clinic (“EVC”) in Catonsville, Maryland, where Angelyn Givens, DVM (“Dr. Givens”) (License No. 5460) became Rebel’s attending veterinarian. After reviewing the medical records from Boston Street and examining Rebel herself, Dr. Givens explained that Rebel’s long-term prognosis was questionable and additional time was needed to determine Rebel’s ultimate neurologic status. Dr. Givens told the Barnetts that Rebel might recover, but she was unable to assess the likelihood of full recovery upon presentation. Dr. Givens briefly discussed the case with a neurologist on staff at EVC, who agreed that it would take time and supportive care to see how Rebel responded before the chance of recovery could be assessed. The Barnetts told Dr. Givens that they felt Rebel was suffering, and due to a questionable long-term prognosis, they did not want to continue treatment. The Barnetts elected to have Rebel euthanized. Dr. Givens complied.

18. Later the same evening, Dr. Danna called EVC to check on Rebel. When Dr. Danna spoke with Dr. Givens and learned that Rebel had been euthanized, Dr. Danna became irate, yelling at Dr. Givens, accusing Dr. Givens of killing a healthy puppy, and telling Dr. Givens that she should have given Rebel back to Dr. Danna. Dr. Givens told Dr. Danna she was not acting appropriately or professionally. Dr. Givens followed up with a letter to Dr. Danna stating that Dr. Danna’s behavior had been unprofessional.

19. On April 18, 2018, the Barnetts opted to have a necropsy on Rebel's body performed at Johns Hopkins University. The necropsy results did not reveal any medical condition that lead to the Rebel's cardiac arrest, nor did the result show brain damage that may have resulted from the cardiac arrest.

20. Dr. Danna, upon learning about the necropsy results, called Dr. Givens again and accused Dr. Givens of killing a healthy puppy. Again, during this telephone conversation, Dr. Danna's behavior was hostile and unprofessional.

21. Following these events, the Barnetts filed a complaint with the Board. Dr. Givens filed her own, separate complaint with the Board. The Barnetts' complaint was assigned Docket No. 18-54A and Dr. Givens' complaint was assigned Docket No. 18-54B.

22. The Board investigated the complaints, which included a review of relevant medical record and witness statements. Regardless of Rebel's chances to make a full recovery with supportive care, the decision to euthanize was entirely within the Barnetts' discretion as Rebel's owners, and not up to Dr. Danna. Based on a totality of the circumstances, Dr. Danna's contentious and hostile behavior when dealing with both Mr. Barnett and Dr. Givens, and her refusal to relinquish custody of Rebel upon reasonable request to do so departed from the accepted standards of professionalism in violation of COMAR 15.14.01.04A & B (Professional Conduct).

23. As Rebel's treating veterinarian, Dr. Danna had a duty to her patient to advocate for appropriate care. However, through her hostile attitude, unmeasured communications, disregard for the Barnetts' rights as pet owners, and general lack of professional decorum, Dr. Danna's actions failed to merit the full faith and confidence of Rebel's owners in her competence as a veterinarian practitioner and were otherwise unprofessional. Ultimately, Dr. Danna's unprofessional communications and demeanor undermined her ability to inform the Barnetts about

Rebel's condition and to provide sound medical advice to them. Had Dr. Danna maintained professional demeanor, the Barnetts may well have followed her advice and recommendations as to Rebel's care.

24. Taking the facts and circumstances into consideration, including the serious nature of the violations, the veterinarian's lack of disciplinary history at the time of the complaint, her acceptance of responsibility, and her good faith efforts to resolve 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 27 day of May, 2020, by the State Board of Veterinary Medical Examiners, ORDERED that:

- (a) For violating COMAR 15.14.01.04 (Professional Conduct), in her interactions and communications with the Barnetts, Dr. Danna shall pay a civil penalty of \$1,000;
- (b) For violating COMAR 15.14.01.04 (Professional Conduct) in her interactions and communications with Dr. Givens, Dr. Danna shall pay a civil penalty of \$600;
- (c) The total civil penalty (\$1,600) shall be paid by Dr. Danna within six months of the date of this Consent Order, by check payable to the Maryland Department of Agriculture with the notation "SBVME – 18-54A&B";
- (d) Dr. Danna's license shall be suspended for one week (1) week, stayed;
- (e) Dr. Danna shall serve a period of probation of one year from the date of this Consent Agreement and Order. 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. The veterinarian shall promptly respond to document requests from the Board for copies of medical records for Board review to ensure compliance with Board regulations, and submit to inspections or other record requests to review compliance. 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 will result in any stay of sanctions being lifted immediately, and the Board ordering the veterinarian to comply with the sanctions;

(f) As an additional condition of probation, Dr. Danna shall complete eight hours of continuing education ("CE"), pre-approved by the Board. The CE shall be completed and verification of completion provided to the Board within six months from the date of this Order. To verify completion of all required CE, Dr. Danna's CE records may be subject to audit by the Board at any time. Proof from the CE provider shall include Dr. Danna's name, the number of hours of CE completed, the topics covered, and the dates the CE was given. This CE will **not** be counted towards the 18 credit hours of CE required annually for re-registration of the veterinary license and the Board may audit CE records for relevant years to verify full completion of the CE required annually for all veterinary practitioners as well as the CE provided for in this Consent Order; and

(g) If Dr. Danna successfully and satisfactorily completes all other requirements of this Consent Agreement before the period of probation has ended, she may file a written petition with the Board to reduce the period of probation. The decision whether to grant Dr. Danna's petition will rest within the sole discretion of the Board, with no right to a hearing or appeal.

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland, this

29th day of May, 2020.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS



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

CONSENT

I, Michelle Danna, 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. In order to resolve this matter, I agree to accept and submit to the foregoing Consent Agreement, consisting of ____ pages. I sign this Consent Agreement without reservation as my voluntary act and deed after having had an opportunity to consult with counsel, and I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Agreement.

5/27/2020
Date


Michelle Danna, D.V.M.