

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

IN THE MATTER OF:

KIRK FORREST, DVM, CO-OWNER
(LICENSE NO. 3045)

K&A MANAGEMENT, LLC
(LICENSE NO. 18-017)

DOCKET NO. 18-59

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CIVIL PENALTY FINAL ORDER

This Civil Penalty Final Order ("Order"), dated this 7th day of September 2018, is issued by the Maryland State Board of Veterinary Medical Examiners ("SBVME" or "Board") against Kirk Forrest, DVM ("Dr. Forrest"), co-owner of K&A Management, LLC (License No. 18-017), located at 22598 MacArthur Boulevard, California, MD 20619. This Order confirms the intention of Dr. Forrest to waive the right to contest the charge filed by the Board on July 30, 2018 in Docket No. 18-59, alleging that Dr. Forrest violated the Maryland Veterinary Practice Act, Agriculture Article, Sections 2-301 - 2-316, Annotated Code of Maryland, ("Veterinary Practice Act") and related Code of Maryland Regulations ("COMAR") 15.14.01 – 15.14.17. In a Notice of Agency Action, served with the charges, Dr. Forrest was advised of his right to request a hearing before the Board within ten (10) days of receipt of the charges and Notice of Agency Action.

By letter dated August 7, 2018, Dr. Forrest notified the Board of his intention to waive his right to a hearing and an appeal of the charges in Docket 18-59, and also enclosed a check for \$1,500.00, representing full payment of the civil penalty proposed.

Under State law, the Board is the licensing authority responsible for regulating the practice of veterinary medicine in this State, which includes filing actions against veterinarians, veterinary hospital owners, and limited use hospital owners charged with violating provisions of the Veterinary Practice Act, Agriculture Article §§ 2-301 *et seq.*, Annotated Code of Maryland and related regulations. As part of its authority, the Board "may refuse, suspend, or revoke any application or license, and censure or place on probation any licensee . . . if the veterinarian [or veterinary hospital owner] . . . [f]ails to comply with Board rules and regulations after receiving a license." Md. Code Ann., Agric. Art., § 2-310(8). In addition, for operating a veterinary hospital or limited use veterinary hospital without a

license, the Board may impose a civil penalty of not more than \$3,000 for a first offense, \$6,000 for a second offense; or \$10,000 for a third or subsequent offense in lieu of or in addition to suspending a veterinarian's license, respectively. Md. Code Ann., Agric. Art. § 2-310.1; COMAR 15.14.11.01.04 (Civil Penalty Standards for Veterinarians). In setting the amount of a civil penalty, the Board shall consider the severity of the violation, the good faith of the violator, and the 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 15.14.11.04A.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Dr. Forrest, after having the opportunity to seek advice of legal counsel, voluntarily waived his right to a hearing on the charge and paid the civil penalty of \$1,500.00. In so doing, Dr. Forrest acknowledges that the Board has sufficient evidence to find, as fact, and conclude as a matter of law, that he violated Agriculture Article § 2-304.1, Md. Code Ann., and a related regulation, specifically COMAR 15.14.14.03B, as follows:

1. At times relevant to this charge, Dr. Forrest was a licensed veterinarian in Maryland who was the co-owner and responsible veterinarian at K&A Management, LLC (License No. 18-017) ("Hospital"), a limited use veterinary hospital which became licensed by the Board on May 16, 2018. Dr. Forrest also worked as a veterinarian at another veterinary hospital. Dr. Forrest has a prior disciplinary history with the Board which includes a case from 2000 (Docket No. 00-07), in which Dr. Forrest was found to have committed professional conduct and professional judgment violations arising from his treatment of a dog, for which he was fined \$1,000 with \$200.00 stayed.
2. In July 2016, Dr. Forrest and his wife, Anne Forrest, were operating a business establishment known as Wag 'N Wash, located at 22598 MacArthur Boulevard, California, MD 20619. Wag 'N Wash is primarily a retail establishment offering pet food and supplies, as well as grooming services.
3. On or about April 23, 2018, the Board received an application for a limited use veterinary hospital owned by Dr. Forrest and his wife to be operated in a portion of the Wag 'N Wash facility.
4. On May 3, 2018, Board Inspector Pegeen Morgan and Board Investigator Susan Husk performed an inspection of Hospital, which is required before the Board can issue any hospital license. Hospital passed inspection and on May 16, 2018, the Board issued a limited use veterinary hospital license for K&A Management, LLC. Prior to May 16, 2018, the Board had not granted any license for the Wag 'N Wash facility that would have allowed veterinary services to be performed there.

5. On June 14, 2018, Board Investigator Husk received an email from Dr. Forrest regarding the Wag 'N Wash facility. In it, Dr. Forrest advised that beginning in July of 2016, he had practiced veterinary medicine at Wag 'N Wash, despite the fact that the facility was not licensed as a veterinary hospital or limited use veterinary hospital prior to May 16, 2018. Dr. Forrest mistakenly believed that because he was licensed to practice at another veterinary hospital, no license was required for veterinary services provided at Wag 'N Wash.

6. The Board investigated Dr. Forrest's statement and obtained sample records showing that Dr. Forrest had practiced veterinary medicine at Wag 'N Wash between July 2016 and May 16, 2018, including on the following dates: July 16, 2016; August 7, 2016; September 11, 2016; October 9, 2016; November 13, 2016; December 30, 2016; January 8, 2017; February 2, 2017; March 12, 2017; April 9, 2017; May 14, 2017; July 11, 2017; August 13, 2017; September 11, 2017; October 8, 2017; November 12, 2017; December 12, 2017; January 14, 2017; February 11, 2018; March 11, 2018; and April 8, 2018.

7. Agriculture Article, § 2-304.1, Annotated Code of Maryland, requires that every veterinary hospital shall be licensed by the SBVME. COMAR 15.14.14.03 (Licensing Requirement) governs limited use veterinary hospitals. COMAR 15.14.14.03B provides that: "[a] person may not operate a limited use veterinary hospital unless the person has a limited use veterinary hospital license."

8. From July 16, 2016 through May 16, 2018, the date a limited use hospital license was issued for Hospital, Dr. Forrest operated Hospital without a valid limited use hospital license issued by the Board, in violation of COMAR 15.14.14.03B.

Taking all facts and circumstances into consideration, including the nature of the violation, Dr. Forrest's lack of prior disciplinary history with the Board with regard to hospital licensing, and Dr. Forrest's good faith effort to resolve this matter promptly, including his honesty in self-reporting the violation, the Board concluded that the most reasonable and appropriate resolution in this matter was a civil penalty only.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 7th day of September, 2018, by the Maryland State Board of Veterinary Medical Examiners, **ORDERED** that for the violation of Agriculture Article, § 2-304.1, Md. Code Ann., of the Veterinary Practice Act, and COMAR 15.14.14.03B, Kirk Forrest, DVM, co-owner of K&A Management, LLC (License No. 18-017), is assessed a civil penalty in the amount of \$1,500.00. The Board acknowledges receipt of the full amount of the civil penalty on August 18, 2018.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

A handwritten signature in black ink, appearing to read 'D. Handel', is written over a horizontal line.

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