

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

IN THE MATTER OF:

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GRETCHEN E. RUBY, D.V.M.
LICENSE NO. 3893

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DOCKET NO. 19-54A

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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order (“Consent Agreement”), dated this 22nd day of June 2021, is between the State Board of Veterinary Medical Examiners (“SBVME” or “Board”) and Gretchen E. Ruby, D.V.M. (“Dr. Ruby”), License No. 3893. This Consent Agreement resolves the charges filed by the SBVME on May 28, 2020 in Docket No. 19-54A, alleging that Dr. Ruby 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.

On May 29, 2020, Dr. Ruby, through counsel, requested a hearing on the charges. Subsequently, on December 17, 2020, Dr. Ruby and her counsel appeared by video conference before a team of Board members for a Resolution Conference. Thereafter, the parties engaged in discussions to resolve the case, which resulted in the agreement set forth herein. By signing this Consent Agreement, Dr. Ruby agrees to waive her right to a hearing on the charges in Docket No. 19-54A 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 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

Gretchen E. Ruby, D.V.M., License Number 3893, 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. Ruby violated COMAR 15.14.01.07 (Professional Judgment and Practice) and COMAR 15.14.01.10A (Record Keeping) as set forth herein:

1. Dr. Ruby is a veterinarian licensed to practice in the State of Maryland, where she has been licensed since 1991. Dr. Ruby was, at the time of the incidents described herein, a veterinarian at Animal Emergency Hospital ("Hospital") (License No. 12-00276), located at 722 Baltimore Pike, Bel Air, MD 21014.
2. On December 24, 2018, Yvonne House ("Ms. House") and her husband Chad House ("Mr. House") (collectively "the Owners" or "the Houses") took their twelve-year-old Chihuahua/Pug mix, CC, to the Hospital because CC seemed to be in pain. Dr. Ruby was CC's attending veterinarian at the time of admission.
3. Several days before that, the Houses had taken CC to their regular veterinary hospital, VCA Newark Animal Hospital ("VCANAH"), in Newark, Delaware for vomiting, excessive thirst and urination. CC was given an injection to settle her stomach, and subcutaneous fluids were administered. CC was also prescribed a bland diet. The Houses returned to VCANAH with CC on December 23, 2018 because CC had not improved. VCANAH performed blood work on CC and diagnosed her with diabetic ketoacidosis ("DKA").

4. DKA is a medical emergency that occurs when there is insufficient insulin in the body to control glucose (blood sugar) levels. Glucose cannot be used by the body properly without insulin, so a lack of insulin allows blood glucose levels to get very high and causes the body to create ketones from fat as an emergency fuel source. If glucose cannot be regulated, high ketone levels lead to a change in the body's acid/base balance. As the body becomes more acidic, appropriate fluid balance cannot be maintained, which can lead to abnormal heart rhythms and abnormal muscle function. If left untreated, diabetic ketoacidosis is fatal.

5. According to CC's medical record from VCANAHA, the Houses declined treatment at VCANAHA and took CC home to consider euthanasia. The Houses sought no further medical treatment for CC until the Houses brought her to the Hospital on December 24, 2018.

6. During her examination of CC on December 24, 2018, Dr. Ruby explained to the Owners that CC was suffering from DKA and recommended hospitalizing CC. Dr. Ruby told the Owners that she had treated many cases of DKA in the past, and that once stabilized and with daily insulin injections, CC had a good chance of living a normal life. The Houses agreed to the treatment plan and left CC in Dr. Ruby's care.

7. Generally, dogs diagnosed with DKA are hospitalized and placed on intravenous fluid therapy to reverse dehydration and ensure adequate fluids in the tissues. They are also given insulin therapy to bring the blood sugar level down quickly. Careful monitoring of patients is vital for successful treatment outcomes. Blood sugar levels, electrolyte levels, and the acid-base balance should be measured frequently in hospitalized patients with DKA. .

8. Dr. Ruby was on duty from the evening of December 24 through the morning of December 25, 2018 at which time CC's case was rounded and care transferred to another Hospital veterinarian, Megan Alayon, DVM ("Dr. Alayon") (License No. 7897). At approximately 7:00 a.m. on December 25, Dr. Alayon assumed responsibility for CC's care.

9. At approximately 9:45 a.m. on December 25, 2018, the Houses called the Hospital to check on CC. They spoke with a Hospital receptionist and were told that CC was responding well to her treatment. Later

in the day, at approximately 4:15 p.m., the Houses called the Hospital to say that they were coming to visit CC.

10. The Houses arrived at the Hospital just after 6:00 p.m. and asked to visit with CC. After a five-minute wait in the lobby, the Houses were escorted to CC's cage by a staff person and given time to visit with CC. While the Houses were petting CC, they noticed that her breathing was sporadic. The Houses asked a staff person to find a doctor or someone with medical knowledge to check on CC and to speak with them. The staff person left the room and returned saying that Dr. Alayon was in the middle of a procedure and would speak to them when she was finished or she would call them, if the Houses were done visiting and wanted to go home.

11. The Houses were too concerned about CC's condition and dyspnea to leave her at that time. They observed CC's dyspnea become worse and told one of several staff members who were in the room at the time that something was clearly wrong with CC. Again, they asked that a doctor examine CC immediately. One of the staff members left the room and brought back Dr. Alayon to examine CC.

12. Dr. Alayon immediately moved CC to another table and intubated her to begin oxygen therapy. Dr. Alayon told the Houses that CC's treatment for DKA was interacting with her heart murmur. While CC was being intubated, CC went into cardiac arrest. After receiving permission from the Houses, Dr. Alayon successfully resuscitated CC. According to the Houses, Dr. Alayon told them that CC only had a 4 percent chance of survival. Subsequently, the Houses made the difficult decision to have CC euthanized while Ms. House held her.

13. The Houses subsequently filed a complaint with the Board. The Board opened an action and conducted an investigation, which included obtaining and reviewing medical records as well as an expert review of the case. Ultimately, the Board concluded that Dr. Ruby provided substandard care and found that her record keeping was deficient.

14. 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. Ruby did not satisfy the applicable standard in her care

and treatment of CC because she failed to develop an adequate, reasonable, and complete treatment plan that included proper monitoring of CC's blood glucose, CC's sodium and electrolyte levels. In a dog with a Grade 3 heart murmur, monitoring respiratory rate and effort more frequently than every three hours necessary. When a patient like CC is hospitalized, if technicians are not trained to check respiratory rate and effort regularly, they should be instructed to do so.

15. A benefit of admission at emergency hospital, where veterinarians are held to a higher standard of care than at a general practice, is to obtain regular monitoring. In this case, Dr. Ruby did not provide or arrange for staff to provide monitoring in accordance with the standard of care. Dr. Ruby should also have rechecked CC's sodium and electrolytes, which were at low levels when her primary veterinarian last saw CC, or directed other personnel to do so.

16. In addition, and in further violation COMAR 15.14.01.07A, Dr. Ruby failed to communicate with the Houses about CC's prognosis, including the difficulty associated with treating DKA in a dog with a heart murmur. A heart murmur is an underlying condition that complicates treatment for DKA. Dr. Ruby failed to discuss the prognosis with the Houses, and thus provided insufficient information from which they could make decisions about CC's care. Dr. Ruby did not discuss diabetes realistically so that the Owners understood that sometimes it cannot be controlled. As a result of these errors and omissions, in violation of the standard of care, the Owners did not have an accurate understanding that the planned treatment could interact negatively with CC's heart murmur and had unreasonable expectations about CC's chance of recovery.

17. Dr. Ruby's record keeping reflecting CC's care and treatment was also deficient. COMAR 15.14.01.10A (Record Keeping) requires, for a companion animal, that a veterinarian prepare a legibly written record that accurately and thoroughly reflects the treatment provided, including the progress and disposition of the case. Dr. Ruby failed to satisfy that standard in a number of ways, including failing to document a complete assessment of CC's condition at the time of admission; failing to document client communications, including communications about CC's diabetes and the treatment plan or prognosis for CC; and failing to document and discuss CC's heart problem and potential difficulties associated with

treating DKA in a dog with a heart murmur. Overall, Dr. Ruby's record was generally difficult to follow and understand.

Taking the facts and circumstances into consideration, including the nature of the violation(s), the veterinarian's 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.

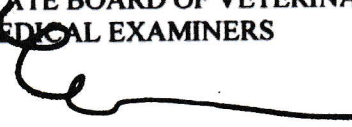
ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 22nd day of June, 2021, by the State Board of Veterinary Medical Examiners, ORDERED that:

- (a) For violating COMAR 15.14.01.07 (Professional Judgment) in her care and treatment of CC, a 12-year-old Chihuahua/Pug mix owned by Yvonne and Chad House, by failing to develop a reasonable treatment plan, failing to properly monitor sodium and electrolyte levels and CC's respiratory rate and effect, or to arrange for such monitoring; and failing to communicate with the Owners about the dog's prognosis and possible problems that could occur when treating DKA in a dog with a heart murmur, Dr. Ruby shall pay a civil penalty of \$500;
- (b) For violating COMAR 15.14.01.10A (Record Keeping) by failing to prepare a written record for a companion animal that accurately and thoroughly reflects the treatment provided, including the progress and disposition of the case. Dr. Ruby shall pay a civil penalty of \$500; and
- (c) The total civil penalty (\$1,000) shall be paid by Dr. Ruby within three months of the date of this Consent Order, by check payable to the Maryland Department of Agriculture (address below) with the notation "SBVME – 19-54A."

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland, this 22nd day of June, 2021.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

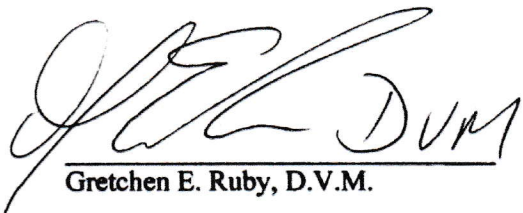


Elizabeth Callahan, DVM
President
State Board of Veterinary Medical Examiners
Maryland Department of Agriculture

CONSENT

I, Gretchen E. Ruby, 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 2 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.

Date:



Gretchen E. Ruby, D.V.M.