

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

IN THE MATTER OF:

*

JAMES C. MOONEY, D.V.M.
LICENSE NO. 5061

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DOCKET NO. 19-75

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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order (“Consent Agreement”), dated this 5th day of January 2022, is between the State Board of Veterinary Medical Examiners (“SBVME” or “Board”) and James C. Mooney, D.V.M. (“Dr. Mooney”), License No. 5061. This Consent Agreement resolves the charges filed by the SBVME on May 28, 2020, in Docket No. 19-75, alleging that Dr. Mooney violated the Veterinary Practice Act, Md. Code Ann. Agric. §§ 2-301 – 2-316 and related Code of Maryland Regulations (“COMAR”) 15.14.01 – 15.14.17 set forth herein.

On June 3, 2020, Dr. Mooney, through legal counsel, requested a hearing on the charges. Thereafter, the parties engaged in discussions to reach an agreed resolution in this case. By email dated June 20, 2021, Dr. Mooney’s counsel notified Board counsel of his agreement to the terms and conditions reflected in this Consent Agreement. By signing this Consent Agreement, Dr. Mooney agrees to waive his right to a hearing on the charges in Docket No. 19-75 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. §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

James C. Mooney, D.V.M., License Number 5061, 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. Mooney violated COMAR 15.14.01.07 (Professional Judgment and Practice) and COMAR 15.14.01.10A (Record Keeping) as set forth herein:

1. Dr. Mooney is a veterinarian licensed to practice in the State of Maryland, where he has been licensed since 1999. Dr. Mooney was, at the time of the incidents described herein, a veterinarian at Dundalk Animal Hospital ("Hospital") (License No. 03-009), located at 7810 Wise Avenue, Baltimore, MD 21222.
2. On March 12, 2019, Jessica Gilles ("Ms. Gilles" or "Owner") took her twelve-year-old spayed beagle, Lady Bug, to the Hospital for a check of the anal gland and ears and a nail trim. Lady Bug had been a patient at the Hospital since 2011 and had a history of chronic otitis.
3. For the March 12, 2019 visit, Lady Bug's treating veterinarian was Dr. Mooney.
4. Dr. Mooney flushed Lady Bug's ears, noting the presence of blood and purulent discharge in the record. Dr. Mooney also expressed Lady Bug's anal glands and trimmed her nails. Dr. Mooney prescribed Mometamax and Cephalexin for Lady Bug's ears because Ms. Gilles declined Claro and broad-spectrum antibiotics. However, he took no other action to address Lady Bug's ears given Ms. Gilles' financial constraints, and Dr. Mooney did not document a full physical examination in the medical record.
5. After Dr. Mooney performed the services requested, Lady Bug was returned to Ms. Gilles. At that time, Ms. Gilles mentioned to Dr. Mooney that Lady Bug had a cough and asked if Dr. Mooney could give

her medication for the cough. Dr. Mooney told Ms. Gilles that Lady Bug needed a full workup to determine why she was coughing, to include x-rays and blood work. Ms. Gilles declined for financial reasons, stating she needed to get insurance. The medical record does not reflect this conversation, including the fact that an ear culture and sensitivity and a full workup was previously offered by Dr. Mooney but declined by Ms. Gilles. Ms. Gilles then asked if she could just get something for Lady Bug's cough. Dr. Mooney then told Ms. Gilles that she could try non-prescription cough tablets, and if the tablets did not work, she should return for x-rays and blood work before Dr. Mooney would prescribe any other medications. He then told Ms. Gilles how much she would need for x-rays and blood work.

6. Thereafter, Ms. Gilles filed a complaint with the Board. The Board opened an action and conducted an investigation, which included obtaining and reviewing the medical records. The Board found that Dr. Mooney provided substandard care to Lady Bug during the March 12, 2019 visit by not offering ear cytology, and the medical record he prepared was not sufficient.

7. 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. Mooney did not satisfy the applicable standard in his care and treatment of Lady Bug because he did not perform an ear cytology to diagnose an ear infection. Without performing an ear cytology, Dr. Mooney dispensed prescription medication to treat Lady Bug's ear infection based on Lady Bug's prior history.

8. In addition, Dr. Mooney's record keeping was not sufficient. 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. Mooney did not document that a physical examination was performed on March 12, 2019, and Dr. Mooney did not document whether he recommended further diagnostics.

Taking the facts and circumstances into consideration, including the nature of the violation(s), the veterinarian's lack of disciplinary history, his 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 5th day of January, 2022, by the State Board of Veterinary Medical Examiners, ORDERED that:

- (a) For violating COMAR 15.14.01.07A (Professional Judgment) in his care and treatment of Lady Bug, a 12-year-old spayed beagle owned by Jessica Gilles, by not performing an ear cytology and by not recording a complete physical examination on March 12, 2019, Dr. Mooney is hereby CENSURED;
- (b) For violating COMAR 15.14.01.10A (Record Keeping) by not preparing a written record for Lady Bug, a companion animal, that accurately and thoroughly reflects the treatment provided, Dr. Mooney is assessed a civil penalty of \$500;
- (c) Dr. Mooney shall pay the civil penalty within sixty (60) days from the date of this Consent Agreement by check payable to the Maryland Department of Agriculture (“MDA”) with the notation “SBVME – 19-75” sent to the MDA at 50 Harry S. Truman Parkway, Annapolis, MD 21401; and
- (d) As an additional requirement of this Consent Agreement, Dr. Mooney shall complete 6 hours of continuing education (“CE”), which consists of the “Medical Record Keeping for Veterinarians” found at drip.vet. The CE shall be completed and verification of completion provided to the Board within ninety (90) days from the date of this Order. Verification 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. To verify

completion of the annual CE requirements and the CE required by this Consent Agreement, the Board may conduct an audit of the veterinarian's CE records for relevant years.

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland, this 5th day of January, 2022.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

Christine Calvert Ivao

Christine Calvert, D.V.M.
State Board of Veterinary Medical Examiners
Maryland Department of Agriculture

CONSENT

I, James C. Mooney, 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 6 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:

12/29/21

James C. Mooney, D.V.M.
James C. Mooney, D.V.M.