

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

IN THE MATTER OF:

*

JENNIFER L. BARNARD, DVM
(LICENSE NO. 6304)

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DOCKET NO. 17-32

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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order ("Consent Agreement"), dated this 26th day of July, 2018, is between the State Board of Veterinary Medical Examiners ("SBVME" or "Board") and Jennifer L. Barnard, DVM, ("Dr. Barnard"), License No. 6304. This Consent Agreement resolves the charges filed by the SBVME on or about May 29, 2018 in Docket No. 17-32 alleging that Dr. Barnard violated the Veterinary Practice Act and related Code of Maryland Regulations ("COMAR") in connection with her care and treatment of "Maggie," a 5-year-old Pomeranian owned by Ronald Phillips.

By letter dated June 7, 2018, Dr. Barnard notified the Board that she does not contest the charges in Docket 17-32 and agrees to enter into this Consent Agreement and Order. By entering into this Consent Agreement, Dr. Barnard waives the right to a hearing and an appeal on the charging document in Docket Number 17-32.

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

Jennifer L. Barnard, D.V.M., License Number 6304, by entering into and signing this Consent Agreement, while generally denying liability in this case, 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. Barnard violated COMAR 15.14.01.07A (Professional Judgment and Practice), as follows:

1. At all times relevant to these charges, Dr. Barnard was a veterinarian licensed to practice in the State of Maryland, where she has been licensed since 2008. Dr. Barnard has no prior disciplinary history with the Board.
2. At the time of the events described in these charges, Dr. Barnard was employed at Pineview Veterinary Hospital ("Hospital") (License No. 11-002), located at 85 Pineview Drive, Oakland, Maryland 21550.
3. On or about January 4, 2017, Ronald Phillips ("Mr. Phillips or "Owner") took his five-year-old Pomeranian dog, "Maggie," to Hospital for an infection of Maggie's left ear. Dr. Barnard was Maggie's treating veterinarian.
4. In the waiting room before her examination, Maggie was carrying on loudly. Once in the exam room, Dr. Barnard had difficulty examining Maggie because she was extremely fractious, scampering on the exam table. Dr. Barnard carried Maggie from the exam room to the hospital treatment room to examine Maggie's ear. During this time, Maggie was out of Owner's view. According to Dr. Barnard, Maggie was held by a technician as Dr. Barnard tried to conduct her examination, but Maggie was struggling and "flailing to avoid" the exam.

5. When Dr. Barnard carried Maggie back into the exam room and placed her on the floor, Maggie was not using her right hind leg. Dr. Barnard subsequently took radiographs of Maggie and told Owner that Maggie had dislocated her right hip. While unable to identify a specific cause, Dr. Barnard speculated that because Maggie had been struggling while being examined, she might have caught her leg between the exam table and the technician.

6. Dr. Barnard anesthetized Maggie and performed nonsurgical Coxofemoral Luxation Reduction and applied an Ehmer Sling.

7. Several weeks later, Owner brought Maggie to Hospital for a follow-up visit. Dr. Barnard took radiographs of Maggie's leg and told Owner that Maggie's hip was still dislocated. While Dr. Barnard made recommendations for treatment, Owner subsequently obtained a second opinion and successful surgery at another veterinary practice.

8. Owners filed a complaint with the Board on January 23, 2017. After obtaining medical records and investigating the complaint, the Board concluded that Dr. Barnard failed to satisfy the applicable standard of care in managing Maggie's fractious behavior at the time of the January 4, 2017, visit. Dr. Barnard failed to use due care and caution in dealing with Maggie's behavior and failed to take measures to safely restrain Maggie during her examination. In the alternative, Dr. Barnard could have declined to examine Maggie that day and asked the owner to bring her back at another time.

Based on the foregoing findings of fact, the Board concludes that Dr. Jennifer L. Barnard, License No. 6304, violated COMAR 15.14.01.07A (Professional Judgment and Practice) as provided herein.

Taking the facts and circumstances into consideration, including the nature of the violation, Dr. Barnard's lack of disciplinary history with the Board, and her good faith efforts to resolve this matter promptly, the Board concluded that the most reasonable and appropriate resolution includes the following sanctions.

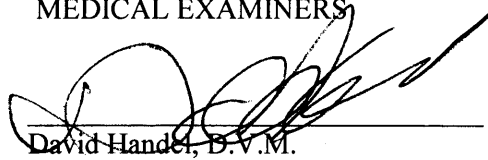
ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 26th day of July, 2018, by the State Board of Veterinary Medical Examiners, ORDERED that:

- (a) For violation of 15.14.01.07A (Professional Judgment and Practice), Dr. Barnard is assessed a civil penalty of \$500.00, due within 30 days from the date of this Order, payable to the "Maryland Department of Agriculture" with the notation "SBVME – 17-32."
- (b) Dr. Barnard shall serve a period of probation of six months from the date of this Consent Agreement. 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. 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 based on acts which occurred during the period of probation. Violation of probation may result in imposition of additional disciplinary action, including, but not limited to, suspension and/or revocation of the veterinary license; and
- (c) As a condition of probation, Dr. Barnard shall complete the 8 hour Fear Free course within 6 months of the date of this Order. Within 15 days of completion of the CE, Dr. Barnard shall forward to the Board documentation from the CE provider showing proof of completion of the CE credits under this Order. Proof from the CE provider shall include Dr. Barnard's name, the course name, the number of CE hours completed, the topics covered, and the dates the CE was given. Completion of this CE will not be counted towards the 18 credit hours of CE required annually for re-registration of the veterinary license. To verify completion of both the CE required under the terms of this Consent Agreement and the CE required for annual registration of the veterinary license, Dr. Barnard may be subject to a CE audit in future years.

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland, this 26th day of July, 2018.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS



David Handel, D.V.M.

President

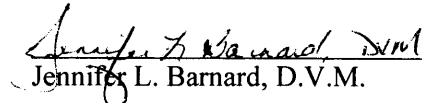
State Board of Veterinary Medical Examiners
Maryland Department of Agriculture

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CONSENT

I, Jennifer L. Barnard, 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 and 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 4 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.

7-16-2018
Date

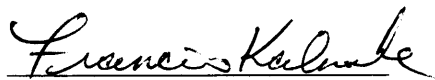

Jennifer L. Barnard, D.V.M.

NOTARY

STATE OF Maryland
CITY/COUNTY OF Carroll

I HEREBY CERTIFY that on this 16 of July, 2018 before me, a Notary Public of the City/County aforesaid, personally appeared Jennifer L. Barnard, D.V.M., and made oath in due form of law that the foregoing Consent Agreement was her voluntary act and deed.

AS WITNESS my hand and notarial seal.



Notary Public

My commission expires: