

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

IN THE MATTER OF:

NATIONAL VETERINARY
ASSOCIATES ("NVA")

DOCKET NO. 17-36

GREATER ANNAPOLIS VETERINARY
HOSPITAL (NEW LICENSE NO. 02-092)
(OLD LICENSE NO. 02-008)

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CIVIL PENALTY FINAL ORDER

This Civil Penalty Final Order ("Order"), dated this 27th day of July, 2017, is issued by the Maryland State Board of Veterinary Medical Examiners ("Board" or "SBVME") against National Veterinary Associates ("NVA") and Greater Annapolis Veterinary Hospital ("GAVH"), License No. 02-092. This Order confirms the intention of NVA, owner of GAVH, to waive the right to contest the charge filed by the Board on June 23, 2017 in Docket No. 17-36, alleging that NVA 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. Specifically, in Docket No. 17-36, the Board alleged that NVA violated COMAR 15.14.03.01-1 (Licensing Requirement), by failing to notify the Board that it had purchased GAVH and by failing to obtain a new license for the hospital once it was acquired. During a telephone call on or about July 6, 2017, Eric Smith, Esquire, counsel for NVA, advised Board staff that NVA would voluntarily waive the right to a hearing and appeal on the charge in Docket No. 17-36. On July 7, 2017, the Board received NVA's check for \$5,000.00, representing payment of the full civil penalty proposed by the Board.

Under State law, the Board 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 provisions of the Veterinary Practice Act and related COMAR 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 practitioner . . . [f]ails to comply with Board rules and regulations after receiving a license[.]" Md. Code Ann., Agric. Art., § 2-310(8). In addition, the Board may 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 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 (Civil Penalty Standards for Veterinarians). NVA's prior disciplinary history in this case included prior instances in which NVA acquired veterinary hospitals but failed to advise the Board and/or obtain new licenses for the hospitals reflecting the new ownership.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

National Veterinary Associates, as owner of Greater Annapolis Veterinary Hospital (formerly License No. 02-008 and current License No. 02-092), has agreed to submit payment of the \$5,000.00 civil penalty assessed by the Board in Docket No.17-36, and waived its right to a hearing or appeal of the charges. After having the opportunity to seek advice of legal counsel, NVA acknowledges that the Board has sufficient evidence to find, as fact, and conclude as a matter of law that it did violate Agriculture Article Section § 2-304.1, Md. Code Ann., and a related regulation; specifically COMAR 15.14.03.01-1 (Licensing Requirement), as follows:

1. GAVH is a veterinary hospital located at 1901 Generals Highway, Annapolis, Maryland 21401. Prior to 2016, GAVH had been licensed under the number 02-008. As of July 1, 2017, the beginning of the Fiscal Year 2017 licensing period, GAVH was co-owned by Dr. David Hickes (License No 1535).

2. In February 2017, Board Investigator Susan Husk attempted to contact Dr. Hickes to remind him that he needed to renew GAVH's hospital registration for Fiscal Year 2017. When Inspector Husk spoke with staff at GAVH, she was advised that Dr. Hickes had retired in April 2016 and sold GAVH. The Board had not been notified of this sale.

3. Inspector Husk then confirmed that NVA had purchased GAVH in April of 2016, without notifying the Board of a change in ownership and without having the hospital inspected following the change in ownership, as required before a new hospital license can be issued. As a result, GAVH operated without a valid license for more than nine months.

4. NVA has a history of purchasing veterinary hospitals without notifying the Board and has been formally disciplined at least four times in the past. NVA's prior disciplinary history includes the following:

- a) Docket No. 15-01: SBVME/Greenbrier Veterinary Clinic (License No. 12-023). Civil Penalty: \$300;
- b) Docket No. 15-02: SBVME/Swan Creek Veterinary Clinic (License No. 12-030). Civil Penalty: \$300;
- c) Docket No. 15-03: SBVME/Churchville Veterinary Clinic (License No. 12-006). Civil Penalty: \$300; and
- d) Docket No. 16-64: SBVME/DBA Anne Arundel Veterinary Emergency Clinic (License No. 02-020). Civil Penalty: \$300.

5. Agriculture Article, § 2-304.1, Annotated Code of Maryland, requires that every veterinary hospital be licensed by the SBVME. COMAR 15.14.03.01-1 specifies the process and requirements for licensing and operation of veterinary hospitals. COMAR 15.14.03.01-1C provides that: "[a] person, including the owner, may not operate a veterinary facility unless it has a veterinary hospital license." COMAR 15.14.03.01-1E provides that: "[b]ecause a hospital license is issued in the name of a particular owner for a particular building or portion of it, the owner may not transfer this license to either a new owner, including a person leasing or purchasing the owner's veterinary practice, or a different physical structure." Moreover, COMAR prohibits an owner from operating a veterinary hospital from a building which has not previously passed inspection.

Taking all the facts and circumstances into consideration, including the nature of the violation, NVA's prior disciplinary history with the Board, and NVA's good faith effort to resolve this matter promptly, 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 27th day of July, 2017, by the Maryland State Board of Veterinary Medical Examiners, **ORDERED** that for the violation of the Veterinary Practice Act, Agriculture Article § 2-304.1), Md. Code Ann. and COMAR 15.14.03.01-1, NVA, as owner of Greater Annapolis Veterinary Hospital, is assessed a civil penalty in the amount of \$5,000.00. The Board acknowledges payment of \$5,000.00 received from NVA on July 7, 2017.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS



David L. Handel, DVM
President