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

IN THE MATTER OF:	*	
BILLY W. BENSON, D.V.M.	*	**DOCKET NO. 18-05A & B**
LICENSE NO. 2720	*	

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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order ("Consent Agreement"), dated this 30th day of August, 2018, is between the State Board of Veterinary Medical Examiners ("SBVME" or "Board") and Billy W. Benson, D.V.M. ("Dr. Benson"), License No. 2720. This Consent Agreement resolves the charges filed by the SBVME on or about May 29, 2018 in Docket No. 18-05A & B alleging that Dr. Benson 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.

By letter dated June 11, 2018, Dr. Benson advised the Board of his decision not to contest the charge and to waive a right to a hearing on the charges. By entering into this Consent Agreement, Dr. Benson waives the right to a hearing and an appeal on the charging document in Docket Number 18-05.

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

Billy W. Benson, D.V.M., License No. 2720, by entering into and signing this Consent Agreement, 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. Benson violated COMAR 15.14.01.16 (Notice of Lack of 24-Hour Supervision) and COMAR 15.14.01.10A(7) (Record Keeping) in connection with the care and treatment provided to "Phoebe" and "Chandler," two puppies owned by Lauren Cohen, as follows:

1. At all times relevant to these charges, Dr. Benson was a veterinarian licensed to practice in the State of Maryland, where he has been licensed since 1984. Dr. Benson has a prior disciplinary history with the Board. In April of 2000, the Board issued an order finding Dr. Benson guilty of a violation of COMAR 15.14.01.04 (Professional Conduct) arising from Dr. Benson's attempt to remove a tattoo from a human patient. Dr. Benson paid $500.00 in civil penalties, had his license suspended for one year (with all but two weeks stayed), and served five years of probation, which he completed. In addition, in 2013, the Board entered a Civil Penalty Final Order against Dr. Benson as a result of record keeping violations. Finally, in January of 2016, Dr. Benson entered into a Consent Agreement with the Board arising from his failure to maintain patient records for a minimum of three years in violation of COMAR 15.14.01.10F, whereby he paid a $1,200.00 civil penalty, completed an online record keeping course, and served a six month period of probation. Dr. Benson has been the subject of more recent disciplinary actions, but those cases were not finalized at the time of the events in this case.

2. At the time of the events described in these charges, Dr. Benson was the owner and responsible veterinarian of Advanced Veterinary Complex, Inc. ("Hospital") (License No. 03-062), located at 501 Main Street, Reisterstown, MD 21136.

3. On July 3, 2017, Lauren Cohen ("Owner" or "Ms. Cohen") took her 6-month-old mixed breed puppies, "Phoebe" and "Chandler" (collectively "the puppies"), to Hospital to be spayed and neutered. Dr. Benson was the puppies' attending veterinarian.

4. When Owner scheduled the appointment for the puppies' surgeries, Dr. Benson told her that the puppies could either be picked up the evening of surgery or could spend the night at Hospital free of charge with a technician on duty to monitor the puppies during the overnight hours. Owner opted to leave puppies at Hospital overnight to be monitored.

5. The puppies' surgeries were performed by Dr. Benson on July 3, 2017 and, in accordance with Owner's wishes, the puppies remained at Hospital to be monitored overnight. That night, at 10:30 p.m. and again at 11:30 p.m., Owner called Hospital to check on the puppies. No one answered the phone.

6. Owner called Hospital again the next morning, July 4, 2017, at 7:30 a.m., at which time she reached a member of Hospital staff. During that call, Owner learned that the Hospital staff member scheduled to work the overnight shift the previous night had not reported to work. Upset that 24-hour care had not been provided as promised, Owner filed a complaint with the Board.

7. The Board obtained medical records and investigated Owner's complaint. The records obtained included records for each puppy's surgery, which did not show that a physical examination of the puppies was performed by Dr. Benson within 12 hours of administering anesthesia, as required by COMAR 15.14.01.10A(7).

8. In addition, as owner and responsible veterinarian at Hospital, Dr. Benson was responsible for properly notifying clients regarding the availability of 24-hour supervision of patients and with creating appropriate procedures to ensure that staff is onsite during the overnight hours to provide supervision to the animals staying there. In response to the Board's investigation, Hospital staff advised that if staff is notified that a technician scheduled to work overnight is not going to report to work as scheduled, Hospital's protocol is to place a sign in the reception room stating that there will be no overnight supervision. In addition, Hospital staff stated that there is no established procedure or protocol to be followed by staff working the evening shift to arrange for back-up in the event the technician scheduled

to work overnight does not report to work. While staff noted that instances in which scheduled staff do not report for overnight duty are rare, Hospital's protocols, as established by Dr. Benson, do not ensure that Hospital is staffed to ensure that 24-hour supervision is provided in the event that overnight staff fails to report for duty.

9. COMAR 15.14.01.16 (Notice of Lack of 24-hour Supervision) provides that a veterinarian who has assumed the care and custody of an animal, but does not provide 24-hour supervision by a paid employee, shall provide written notification that 24-hour supervision is not provided. In this case, Dr. Benson falsely promised that 24-hour supervision would be provided at Hospital, when actually, such care was not provided to Owner's puppies. Hospital staff made no effort to notify Owner that her puppies would be left unsupervised overnight during the night following their surgery.

10. Moreover, a Hospital's status as one that provides 24-hour supervision is not a day to day designation. If a Hospital holds itself out as providing 24-hour supervision and advertises that status on its website and other platforms, it must honor that promise. Posting a sign in the waiting room reflecting day to day changes in 24-hour supervision status does not satisfy the COMAR requirements. Some clients chose a hospital because 24-hour supervision is available. If there are rare instances in which 24-hour coverage will not be available due to unusual staffing issues, that fact should be communicated directly to clients leaving pets overnight so that the clients can make an informed decision about leaving an animal without 24-hour supervision. Dr. Benson and Hospital failed to provide adequate notice regarding the lack of 24-hour supervision at the time Owner's puppies were boarded at Hospital.

Taking all facts and circumstances into consideration, including the nature of the violation, the veterinarian's prior disciplinary history at the time of the complaint, and his good faith efforts to resolve this matter promptly, 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 30th day of August 2018, by the State Board of Veterinary Medical Examiners, ORDERED that:

(a) For violation of COMAR 15.14.01.16 (Notice of Lack of 24-hour Supervision), Dr. Benson shall pay a civil penalty of $2,000.00;

(b) For each of two violations of COMAR 15.14.01.10A (Record Keeping), arising from failure to document that he conducted a physical exam of the puppies before performing surgery, Dr. Benson shall pay a civil penalty of $600.00, for a total civil penalty of $1,200.00 for record keeping violations;

(c) Dr. Benson shall pay the total of the civil penalties ($3,200.00) to the "Maryland Department of Agriculture" with the notation "SBVME – 18-05," within thirty (30) days of the date of this Order; and

(d) Within thirty (30) days of the date of this Order, Dr. Benson shall submit to the Board, for Board approval, written plans reflecting his Hospital's protocol for ensuring that 24-hour supervision is provided, including standard practices to address situations in which a technician or other employee does not report for work for the overnight shift as scheduled. If the initial submission is not initially approved, Dr. Benson shall modify the written protocol as necessary to obtain Board approval.

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland, this 30th day of August, 2018.

STATE BOARD OF VETERINARY MEDICAL EXAMINERS

David Handel, D.V.M.
President
State Board of Veterinary Medical Examiners
Maryland Department of Agriculture

CONSENT

I, Billy W. Benson, 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 ___ 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.

8/21/18
Date

Billy W. Benson DVM
Billy W. Benson, D.V.M.

NOTARY

STATE OF Maryland
CITY/COUTY OF Baltimore

I HEREBY CERTIFY that on this 21 of August, 2018 before me, a Notary Public of the City/County aforesaid, personally appeared Billy W. Benson, D.V.M, and made oath in due form of law that the foregoing Consent Agreement was his voluntary act and deed.

AS WITNESS my hand and notarial seal.

Notary Public
My commission expires: 3/28/22

HOUSSAM TANNOUS
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
My Commission Expires 03-28-2022