

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

IN THE MATTER OF:

*

APRIL MUSE, DVM
(LICENSE NO. 7010)

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DOCKET NO. 18-24

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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order ("Consent Agreement"), dated this 9th day of August, 2018, is between the State Board of Veterinary Medical Examiners ("SBVME" or "Board") and April Muse, DVM ("Dr. Muse"), License No. 7010. This Consent Agreement resolves the charge filed by the SBVME on or about July 5, 2018 in Docket No. 18-24 alleging that Dr. Muse violated the Veterinary Practice Act and related Code of Maryland Regulations ("COMAR") in connection with her care and treatment of "Jazzie," a 3-year-old female Pomeranian owned by Kevin Kalkbrenner and Charles Jack Rites.

By letter dated July 18, 2018, Dr. Muse notified the Board of her intention to waive her right to a hearing before the Board and stated that she would entered into a Consent Agreement to resolve this case. By entering into this Consent Agreement, Dr. Muse waives the right to a hearing and an appeal on the charging document in Docket Number 18-24.

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

April Muse, D.V.M., License Number 7010, by entering into and signing this Consent Agreement, while generally and specifically 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. Muse violated COMAR 15.14.01.07A (Professional Judgment and Practice), in her treatment of "Jazzy," a 3year-old female Pomeranian owned by Charles Jack Rites and Kevin Kalkbrenner, as set forth below.

1. Dr. Muse is a veterinarian licensed to practice in the State of Maryland and has been at licensed in Maryland since 2012. Dr. Muse was, at the time of the incident described herein, a relief veterinarian at PET +ER ("Hospital")(License No. 03-133) located at 1209 Cromwell Bridge Road, Towson, MD 21286. Dr. Muse has no prior public disciplinary history with the Board.
2. On the evening of July 3, 2017, Charles Jack Rites ("Mr. Rites") and Kevin Kalkbrenner ("Mr. Kalkbrenner") took their three-year-old Pomeranian, "Jazzie," to Hospital. Mr. Rites and Mr. Kalkbrenner (collectively referred to as "Owners") were concerned because Jazzie had been "scooting" for three days and had a sore rear end.
3. At Hospital, Dr. Muse was Jazzie's attending veterinarian. Mr. Kalkbrenner told Dr. Muse that Jazzie has never liked being touched around her rear end and would snap and try to get away if handled in that area. Dr. Muse muzzled Jazzie to examine her. Dr. Muse found that Jazzie had a perianal moist dermatitis with matted hair and feces around her anus.
4. With Owners' consent, Dr. Muse took Jazzie to a treatment room and administered an injection of hydromorphone 2 mg/ml, 0.6 ml, intravenously, both to reduce Jazzie's discomfort and to sedate her. Dr.

Muse proceeded to clip the hair and clean the skin around Jazzie's anus. Jazzie was prescribed Panalog ointment and cephalexin capsules.

5. When an assistant brought Jazzie back to Owners who were waiting in the lobby, Jazzie was disoriented and panting heavily. Mr. Kalkbrenner expressed concern, and the assistant told Owners that this was a normal reaction to the pain medication. However, Owners were so concerned about Jazzie's condition that they asked to speak with Dr. Muse. Dr. Muse told Owners that heavy panting and some loss of mobility were normal reactions to hydromorphone and that the effects would wear off in about 30 minutes.

6. On the way out of Hospital, Jazzie fell over and Mr. Kalkbrenner had to carry her to the car. It is an approximately 25 minute drive from Hospital to the home of Owners. When they arrived at home, Mr. Kalkbrenner had to carry Jazzie into the house as she still was not ambulatory. Jazzie continued to pant heavily and seemed very distressed. About 30 minutes after arriving at home, Owners called Hospital regarding their concerns but were again told by staff that Jazzie's symptoms were normal.

7. Mr. Kalkbrenner continued to check on Jazzie during the night. He observed that Jazzie continued to pant heavily and appear distressed. In the early morning of July 4, 2017, Mr. Kalkbrenner found that Jazzie was dead.

8. After Jazzie's death, Owners filed a complaint with the Board. The Board investigated the complaint and obtained medical records for Jazzie, including the records from Jazzie's treatment at Hospital.

9. After reviewing the records and considering all evidence, the Board found that the dosage of hydromorphone administered at Hospital was appropriate. However, the Board further found that Jazzie was not recovering from the hydromorphone as dogs would normally be expected to recover. Given Jazzie's slow recovery, Dr. Muse violated the applicable standard of care by failing to keep Jazzie for monitoring and treatment, especially after the owners expressed deep concern about Jazzie's condition and explicitly stated that they thought something was wrong. The standard of care requires an animal to

be adequately recovered and able to walk out of the hospital on her own before being discharged. In addition, an animal should not be sent home if the owners are not comfortable taking the animal home.

Based on the foregoing findings of fact, the Board concludes that April Muse, License No. 7010, violated the Veterinary Practice Act and related regulations, specifically COMAR 15.14.01.07 (Professional Judgment) by failing to adequately monitor and treat a dog that had not recovered from hydromorphone and by sending the dog home prematurely, despite concerns expressed by the dog's owners.

Taking the facts and circumstances into consideration, including the nature of the violations, Dr. Muse's lack of a 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 set forth below.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 9th day of August, 2018, by the State Board of Veterinary Medical Examiners, ORDERED that for violation of COMAR 15.14.01.07A (Professional Judgment and Practice):

(a) Dr. Muse shall pay a civil penalty of \$1,000.00 within thirty (30) days of the date of this Order, payable to the "Maryland Department of Agriculture" with the notation "SBVME – 18-24:" and

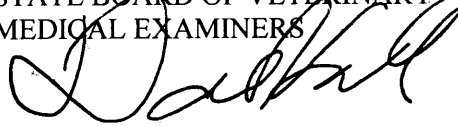
(b) Dr. Muse shall complete six (6) hours of continuing education ("CE"), preapproved by the Board, in anesthesia, and forward to the Board documentation from the CE provider showing proof of completion of the CE credits under this Order. Proof from the CE provider shall include Dr. Muse's name, the 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. Muse may be subject to CE audits in future years.

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland, this

9th 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

50 Harry S. Truman Parkway, Room 102

Annapolis, Maryland 21401

Telephone: 410.841.5862

CONSENT

I, April Muse, 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 ____ 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.

August 8, 2018
Date

April K. Muse, DVM
April Muse, D.V.M.

NOTARY

STATE OF Maryland
CITY/COUNTY OF Belt Air / Harford

I HEREBY CERTIFY that on this 8 of August, 2018 before me, a Notary Public of the City/County aforesaid, personally appeared April Muse, 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.

Kayla Emily-Elaine Hobbs
Notary Public

My commission expires: July 14, 2021

