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

IN THE MATTER OF:	*	
ERIN MARTINEZ, D.V.M. (LICENSE NO.7545)	*	DOCKET NO. 19-03
	*	

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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order ("Consent Agreement"), dated this 2nd day of April, 2019, is between the State Board of Veterinary Medical Examiners ("SBVME" or "Board") and Erin Martinez, DVM ("Dr. Martinez"), License No. 7545. This Consent Agreement resolves the charges filed by the SBVME on or about December 19, 2018 in Docket No. 19-50 alleging that Dr. Martinez violated the Veterinary Practice Act and related Code of Maryland Regulations ("COMAR") as set forth herein.

By letter dated December 24, 2018, Dr. Martinez , through counsel, requested a hearing before the Board. Thereafter, the parties entered into discussions regarding resolution of the case and ultimately were able to reach an agreement to resolve the case. By entering into this Consent Agreement, Dr. Martinez waives the right to a hearing on the charging document in Docket Number 19-03 and agrees to the resolution set forth herein..

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

Erin Martinez, D.V.M., 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. Martinez violated COMAR 15.14.01.07A (Professional Judgment and Practice), as follows:

1. At all times relevant to these charges, Dr. Martinez was a veterinarian licensed to practice in the State of Maryland, where she has been licensed since 2015. Dr. Martinez has no prior formal disciplinary history with the Board.

2. At the time of the events described in these charges, Dr. Martinez was the responsible veterinarian at Waldorf Well Pet Clinic and Paw Prints Animal Hospital ("Hospital")(License No. 08-022), located at 8500 Bensville Road, Waldorf, MD 20603.

3. On or about March 16, 2018, Mary-Sarah Adams ("Ms. Adams" or "Owner") took her approximately 13-year-old unaltered male Dachshund, "Remington Levi," to the Hospital to obtain a dental estimate and pre-surgical blood work. The attending veterinarian at the Hospital (not Dr. Martinez) who examined Remington Levi at that time found him to be in good health. Blood work was normal. During this pre-op visit, the treating veterinarian recommended that Remington Levi undergo neuter surgery at the same time as the dental cleaning. The Owner declined to do both procedures at the same time and proceeded to schedule the dental cleaning for March 19, 2018.

4. On March 19, 2018, the Owner arrived at the Hospital for Remington Levi's scheduled dental cleaning and heartworm test. The Owner completed the Hospital's client and patient intake information form and specified that the dog was to undergo a dental cleaning and heartworm test only.

5. Dr. Martinez was Remington Levi's attending veterinarian on the day of surgery. Prior to performing surgery, Dr. Martinez reviewed Remington Levi's medical records and blood work and determined that he was generally healthy and a good anesthesia risk. Dr. Martinez proceeded to perform a dental cleaning and a lower right second molar extraction. However, in addition to the dental cleaning, Dr. Martinez also performed neuter surgery on Remington Levi. The dog recovered well from the surgeries.

6. When the Owner arrived to pick up Remington Levi after surgery, the Hospital staff reviewed the discharge paperwork with her. At that time, Hospital staff realized that the Owner had not elected to neuter Remington Levi that morning, but that information was not conveyed to Dr. Martinez prior to surgery. The Hospital staff apologized to the Owner. The Owner was not charged for the neuter surgery or any other veterinary procedure performed on March 19, 2018, and, at the Owner's request, Dr. Martinez provided a written chronology of the events leading up to the surgery.

8. The Owner later filed a complaint with the Board arising from Dr. Martinez' neuter of her dog without consent.

Based on the foregoing findings of fact, the Board concludes that by failing to review the intake paperwork completed by the Owner which specified the procedures for which consent was given, which did not include neuter surgery, and by performing neuter surgery on Remington Levi without the Owner's authorization or consent, Dr. Martinez violated the applicable standard of care set forth in COMAR 15.14.01.07A (Professional Judgment and Practice).

Taking the facts and circumstances into consideration, including the nature of the violation, Dr. Martinez's lack of formal disciplinary history, evidence demonstrated by Dr. Martinez that she has taken responsibility for the violation and adopted measures to address the problems demonstrated in this case so that a similar situation is unlikely to reoccur, and her good faith efforts to resolve this matter promptly, the Board concluded that the most reasonable and appropriate resolution includes the measures set forth below.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 10th day of April, 2019, by the State Board of Veterinary Medical Examiners, ORDERED that for the violation of COMAR 15.14.01.07A (Professional Judgment and Practice),:

(a) Dr. Martinez is assessed a civil penalty of $500.00, payable within thirty (30) days from the date of this Consent Agreement to the "Maryland Department of Agriculture" with the notation "SBVME – 19-30;" and

(b) Dr. Martinez shall serve a period of six months of probation, which begins as of the date this Consent Agreement is issued by the Board. 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. If any violation of probation is found, following notice and opportunity to be heard, the Board may take additional disciplinary action including, but not limited to, imposition of a two week suspension.

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland, this 10th day of April, 2019.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

David Handel, DVM
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, Erin Martinez, 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 5 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.

4/2/19
Date

Erin Martinez, D.V.M.

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF Anne Arundel

I HEREBY CERTIFY that on this 2 of April, ~~2018~~ 2019 before me, a Notary Public of the City/County aforesaid, personally appeared Erin Martinez, 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: 6/18/2019

NICOLE NORMAN
Notary Public
Anne Arundel County
Maryland
My Commission Expires June 18, 2019