

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

IN THE MATTER OF:

BILLY BENSON, DVM
(LICENSE NO. 2720)

DOCKET NO. 17-27

* * * * *

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 Billy Benson, DVM, ("Dr. Benson"), License No. 2720. This Consent Agreement resolves the charges filed by the SBVME on or about March 13, 2018, in Docket No. 17-27 alleging that Dr. Benson violated various provisions of the Veterinary Practice Act and related COMAR regulations in connection with his care and treatment of "Sheba," a 15-year-old Standard Poodle owned by Kim Letke. At the time charges were filed, Dr. Benson was notified of his right to request a hearing before the Board.

By letter dated May 14, 2018, Dr. Benson waived his right to a hearing before the Board and agreed to accept the sanctions proposed. By entering into this Consent Agreement, Dr. Benson waives the right to a hearing and an appeal on the charging document in Docket Number 17-27.

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 Benson, D.V.M., License Number 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 committed two violations of COMAR 15.14.01.07 (Professional Judgment and Practice) and five record keeping violations (COMAR 15.14.01.10-A (Record Keeping) and COMAR 15.14.01.10-1), 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. In addition, in 2013, the Board entered a Civil Penalty Final Order as a result of record keeping violations. 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 and to provide records to a client in a timely manner, whereby he paid a \$1,200.00 civil penalty, completed an online record keeping course, and served a six month period of probation. Most recently, in May 2018, Dr. Benson entered into a Consent Agreement with the Board in Docket No.17-47, which was not final at the time of the charges in this case, in which the Board found a violation of COMAR 15.14.01.07 (Professional Judgment and Practice) arising from Dr. Benson's treatment of a dog in late 2016 and early 2017. For that violation, Dr. Benson was assessed a civil penalty of \$1000.00 and his license to practice veterinary medicine was suspended for one week, stayed, pending successful completion of probation and other terms and conditions of the Consent Agreement

and Order. In addition, Dr. Benson was ordered to serve a period of probation for one year and to complete six hours of continuing education.

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 or about January 2, 2017, Kim Letke ("Ms. Letke" or "Owner") took her 15-year-old Standard Poodle, "Sheba," to Hospital for blood work and to discuss the prospect of undergoing teeth cleaning and removal of multiple, small skin growths (or warts). Both of the procedures contemplated were elective procedures that would require Sheba to be anesthetized. Dr. Benson was Sheba's attending veterinarian.

4. During the January 2, 2017 visit, Owner indicated that Sheba had been generally healthy. However, Owner expressed concern to Dr. Benson about using anesthesia, given Sheba's advanced age. Generally, there is a greater risk of anesthetic death for older dogs. Dr. Benson assured Owner that he would examine Sheba thoroughly, perform blood work, and review the blood work before going forward with the dental cleaning and removal of the growths.

5. Prior to leaving Hospital, Owner signed a consent authorizing blood work and the dental procedure. Hospital did not, however, provide a written estimate of charges for the procedures.

6. After Owner left Hospital, Dr. Benson performed the dental cleaning and skin growth procedures on Sheba. The records prepared by Dr. Benson related to Sheba's treatment do not show that Dr. Benson performed a pre-anesthetic examination of Sheba.

7. Moreover, despite the fact that Owner had consented and paid for blood work, there is nothing in Dr. Benson's medical records indicating that Dr. Benson reviewed the blood work, relied on the blood work in making diagnostic or treatment decisions, or discussed the blood work results with Owner prior to placing Sheba under general anesthesia. In fact, Dr. Benson has admitted that he did not thoroughly review Sheba's blood work prior to placing Sheba under general anesthesia. As a result, Dr. Benson did not realize, prior to placing Sheba under anesthesia, that the blood work revealed elevated

liver enzymes, which could suggest a serious underlying medical condition for which use of anesthesia would be risky or unsafe. Accordingly, Dr. Benson never informed Owner of the increased risk.

8. The medical records prepared by Dr. Benson for the surgery do not contain a surgery log or an anesthesia log. In addition, the records do not reflect the concentration of four drugs used during the surgery, namely Torbugesic, ketamine, valium, and Polyflex.

9. The records prepared by Dr. Benson during and after the surgery do not show, nor is there any evidence of, adequate anesthetic monitoring.

10. At 3:30 p.m. on January 2, 2017, Owner called Hospital to check on Sheba and was advised that the dental cleaning and skin growth removal had been completed and that Sheba would be ready to go home at 5:00 p.m. While Owner was on her way to pick up Sheba, she received a telephone call from Dr. Benson advising her that Sheba's temperature was 108 degrees.

11. After Owner arrived at Hospital, Dr. Benson told her, for the first time, that Sheba's blood work had shown high liver values. Dr. Benson assured Owner that Sheba would not die, but said that he needed to lower Sheba's temperature. Dr. Benson asked Owner to leave Hospital and to come back at 8:00 p.m. Owner complied.

12. When Owner arrived back at Hospital as instructed, Sheba was completely unresponsive. Owner stayed with Sheba until 10:15 p.m., at which time Dr. Benson asked Owner to leave. Owner recalls that when she left Hospital, Sheba's temperature was 96 degrees.

13. After Owner's departure, Dr. Benson left Hospital to return home. In so doing, Dr. Benson left Sheba, a 15-year-old dog in an obviously compromised physical condition, in the custody of a Hospital technician. Dr. Benson did not make arrangements for another veterinary practitioner to monitor Sheba once he left Hospital or take other action to provide for her care and monitoring.

14. Sheba died later that night, at approximately 12:30 a.m. on January 3, 2017, after Dr. Benson had left Hospital.

15. Had Dr. Benson reviewed Sheba's blood work prior to performing surgery and/or discussed the results with Owner, there is a strong likelihood that Owner would not have consented to the surgery.

Based on the foregoing findings of fact, the SBVME, concludes that Dr. Billy Benson, License No. 2720, committed two violations of COMAR 15.14.01.07A (Professional Judgment and Practice), by:

- i. Failing to review Sheba's blood work prior to placing Sheba under general anesthesia for elective procedures, failing to discuss Sheba's blood work with the Owner prior to performing the procedures, and failing to use the blood work results to make proper diagnostic and medical decisions; and
- ii. Failing to monitor or arrange for adequate monitoring of Sheba the night following surgery when it was apparent that Sheba was in a compromised physical condition.

The SBVME also concludes that Dr. Benson committed five record keeping violations by:

- i. Failing to perform an adequate pre-anesthetic physical examination, or in the alternative, to document the pre-anesthetic physical examination in the medical records, in violation of COMAR 15.14.01.10A(7)(a);
- ii.. Failing to record in the medical records the concentration of four drugs used during surgery, namely Torugesic, ketamine, valium, and Polyflex, in violation of COMAR 15.14.01.10A(8)(a);
- iii.. Failing to document the performance of adequate anesthetic monitoring during a surgical procedure, in violation of COMAR 15.14.01.10A(9);
- iv. Failing to prepare, or in the alternative to include in the medical records for Sheba, a surgical log and an anesthetic log, in violation of COMAR 15.14.01.10A(10); and
- v. Failing to provide a written estimate of the charges for hospitalization or surgery for a companion animal, in violation of COMAR 15.14.01.10-1A. (Client Consent for Companion Animals and Hospitalized Animals) and by failing to obtain the signature of

Sheba's Owner on the estimate, indicating Owner's acknowledgment and approval before performing surgery.

Taking the facts and circumstances into consideration, including the nature of the violations, Dr. Benson's significant disciplinary history with the Board, as well as his 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 each of two violations of COMAR 15.14.01.07A (Professional Judgment and Practice), Dr. Benson is assessed a civil penalty of \$5,000.00 for a total of \$10,000 for professional judgment violations;
- (b) For each of five record keeping violations, which consist of four violations of COMAR 15.14.01.10 (Record Keeping) and one violation of 15.14.01.01.10-1 (Client Consent for Companion Animals and Hospitalized Animals), Dr. Benson is assessed a civil penalty of \$500.00, for a total of \$2,500.00 for record keeping violations;
- (c) The total civil penalty for all violations (\$12,500.00) shall be paid in five monthly installments of \$2,500.00, with the first installment due within 30 days from the date of this Order. All payments shall be made payable to the "Maryland Department of Agriculture" with the notation "SBVME – 17-27." In the event Dr. Benson does not make an installment payment in a timely manner, the entire remaining balance shall immediately become due and owing; and
- (d) Dr. Benson shall, within six months of the date of this Order, complete the entire Veterinary Law and Ethics course and Veterinary Medical Records online course offered by Dr. James Wilson and Dr. Lance Roasa at www.drip.vet;

(e) Within 15 days of completion of the CE, Dr. Benson 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. Benson'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. Benson may be subject to a CE audit in future years;

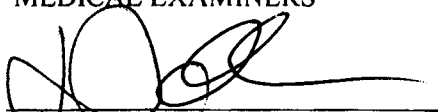
(f) Dr. Benson's license shall be suspended for two weeks. Dr. Benson shall notify the Board of his intention to serve the suspensions prior to serving the suspension;

(g) Dr. Benson shall be on probation for 12 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.

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

20th 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

CONSENT

I, Billy 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 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.

July 11, 2018
Date

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

NOTARY

STATE OF Maryland
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 11 of July, 2018 before me, a Notary Public of the City/County aforesaid, personally appeared Billy 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: 01/06/2020

TOCCARA MYERS
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
My Commission Expires 01-06-2020