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

IN THE MATTER OF:	*	
JAMES D. NOLTE, D.V.M.	*	DOCKET NOS. 10-45. 10-58, & 11-56
LICENSE NO. 2076	*	

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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order (Consent Agreement), dated this 3rd day of August, 2011, is between the Maryland State Board of Veterinary Medical Examiners (Board) and James D. Nolte, D.V.M. (Dr. Nolte), License No. 2076. This Consent Agreement resolves two charging documents filed by the Board on March 25, 2011, and a third charging document filed by the Board on May 19, 2011. The charging document in Docket No. 10-45 alleged that Dr. Nolte violated the Maryland Veterinary Practice Act and related Code of Maryland Regulations (COMAR) with respect to veterinary medical care and treatment provided to Donna Evans' 20-month-old female Pug, "Sasha," on January 6, 2010. The charging document in Docket No. 10-58 alleged that Dr. Nolte violated the Maryland Veterinary Practice Act and related COMAR regulations with respect to veterinary medical care and treatment provided to David Green's 15-year-old West Highland Terrier, "Wesley," on August 22, 2009. The charging document in Docket No. 11-56 alleged that Dr. Nolte violated the Maryland Veterinary Practice Act and related COMAR regulations with respect to the failure to secure certain controlled dangerous substances under lock at Chesapeake Animal Hospital, Hospital License No. 22-005, on February 23, 2011. On April 8, 2011, Dr. Nolte requested a hearing before the Board to dispute the first two charging documents, but the request was untimely. On May 25, 2011, Dr. Nolte requested a hearing regarding Docket No. 11-56. Thereafter, the parties entered into discussions and were able to reach a resolution. By entering into this Consent Agreement, Dr. Nolte waives the right to a hearing and appeal on the charging documents in Docket Nos. 10-45, 10-58, and 11-56.

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 Maryland Veterinary Practice Act, Agriculture Article §§ 2-301 et seq., Annotated

Code of Maryland and related 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 . . . [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 a veterinarian's license. Md. Code Ann., Agric. Art., § 2-310.1.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Dr. Nolte, by entering into and signing this Consent Agreement, while generally and specifically denying liability in this case, agrees to this Consent Agreement, acknowledging that the Board has sufficient evidence to find, as fact, and conclude as a matter of law, that:

1. In Docket No. 10-45, Dr. Nolte:

a. Violated COMAR 15.14.01.07 pertaining to professional judgment and practice, when he failed to provide adequate pain management to his patient, "Sasha," during and after spaying surgery on or about January 6, 2010; extubated the patient too quickly and failed to continuously monitor the physiologic parameters during and after the anesthetic procedure; the patient was a Pug, which is a brachycephalic dog usually at higher risk during the perianesthetic period; and failed to make appropriate attempts to resuscitate the patient by using doxapram, a drug that is contraindicated because it decreases cerebral blood flow and cerebral oxygen consumption and requirement, instead of using epinephrine, atropine, and vasopressin; and

b. Violated COMAR 15.14.01.04 pertaining to professional conduct, when he failed to contact Ms. Evans, the owner, as soon as "Sasha" was noticed to be unresponsive during recovery from surgery, and could not be revived on January 6, 2010; and

2. In Docket No. 10-58, Dr. Nolte violated COMAR 15.14.01.10 pertaining to record keeping sometime between September 14, 2009 and March 12, 2010, by either falsifying the medical record for

"Wesley" to indicate that a fluoroscein stain was negative during a physical examination of the dog's eyes on August 22, 2009, when no stain was actually done, or amending the record without dating or initialing the amendment, indicating that on August 22, 2009, when he examined the dog's eyes, the stain was negative; and

3. In Docket No. 11-56, Dr. Nolte violated COMAR 15.14.01.12C(3) and D pertaining to controlled dangerous substances, when he failed to secure certain controlled dangerous substances; specifically, one 100 ml bottle of Beuthanasia-D Special, a Schedule II drug, and two boxes containing injectable Ketamine HCl, a Schedule III drug, under lock when not in use in Chesapeake Animal Clinic, Hospital License Number 22-005, an animal hospital, which he owned and operated, on or about February 23, 2011.

Taking into account all of the facts and circumstances, the Board concluded that the following sanctions were reasonable and appropriate.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 3rd day of August, 2011, by the Maryland State Board of Veterinary Medical Examiners, **ORDERED** that:

1. Dr. Nolte is assessed a total civil penalty in the amount of Five Thousand Dollars ($5.000.00), payment to be made to the Maryland State Board of Veterinary Medical Examiners ("SBVME") within 30 days of the date of this Order. The total civil penalty of $5,000.00 shall be divided as follows:

a. For Docket No. 10-45, three charges under COMAR 15.14.01.07 of $500.00 each and one charge under COMAR 15.14.01.04 of $500.00;

b. For Docket No. 10-58, one charge under COMAR 15.14.01.07 of $1,000.00 and one charge under COMAR 15.14.01.10 of $1,000.00; and

c. For Docket No. 11-56, one charge under COMAR 15.14.01.12 of $1,000.00.

2. Dr. Nolte's veterinary license, no. 2076, is suspended for a period of three months (twelve weeks); however, six weeks of this suspension are stayed. Dr. Nolte may serve the remaining 6 weeks of

suspension in separate weeks, providing that he shall give the Board one week of prior written notice before serving each week of suspension.

3. Dr. Nolte shall serve a period of probation of four years from the date of this Order. 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 during the period of probation. Violation of probation may result in further disciplinary action and sanctions.

4. As a condition of probation, Dr. Nolte shall complete a total of 24 credit hours of continuing education (CE) to include 6 credit hours of CE in ophthalmology, 6 credit hours of CE in anesthesia, and 12 credit hours of CE in professional ethics, as preapproved by the Board, within twelve months of the date of this Order. To fulfill this requirement, the veterinarian shall obtain approval for the selected CE from the Board before registering and participating in the CE courses. After completion of the 24 credit hours, the veterinarian shall forward to the Board proof of completion of the CE credits required under this Order. Proof will include Dr. Nolte's name, the number of hours of CE completed, the topics covered, and the dates the CE courses were given. Completion of this CE will not be counted towards the 18 hours of CE required annually for re-registration of the veterinary license.

Chris H. Runde, DVM

Chris H. Runde, D.V.M.
President
Maryland State Board of Veterinary Medical Examiners

CONSENT

I, James D Nolte acknowledge that I have had an opportunity to consult with legal counsel before entering into and signing this document. By this Consent, I hereby acknowledge the legal authority and the 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 five pages, including this page. I sign this Consent without reservation as my voluntary act, and I acknowledge that I fully understand the language, meaning, and terms of this Consent Agreement.

7/26/11
Date

James D Nolte, D.V.M.

NOTARY

STATE OF Maryland

CITY/COUNTY OF Wicomico

I HEREBY CERTIFY that on this 26 day of July, 2011, before me, a Notary Public of the State and City/County aforesaid, personally appeared James Nolte, D.V.M., and made oath in due form of law that the foregoing Consent Agreement and Order was her voluntary act and deed.

AS WITNESS my hand and notarial seal.

Notary Public

My Commission expires:

7/23/14