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

IN THE MATTER OF:	*	
JEFFREY L. HESS, D.V.M.	*	DOCKET NO. 11-20
LICENSE NO. 1850	*	

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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order (Consent Agreement), dated this 30th day of September, 2011, is between the Maryland State Board of Veterinary Medical Examiners (Board) and Jeffrey L. Hess, D.V.M. (Dr. Hess), License No. 1850. This Consent Agreement resolves the charges filed by the Board on August 22, 2011 in Docket No. 11-20, alleging that Dr. Hess violated certain Code of Maryland Regulations (COMAR) under the Veterinary Practice Act. Specifically, in Docket No. 11-20, the Board alleged that Dr. Hess violated COMAR 15.14.01.10 Record Keeping, and COMAR 15.14.01.07 Professional Judgment and Practice, on or about April 13 through June 14, 2010, by failing to maintain adequate records and failing to provide the minimal standards of care in the treatment of a six-year-old spayed female Yorkshire Terrier, "Kelsey," who was presented by Brenda Clark for limping and a possible broken hind leg. On or about September 7, 2011, Dr. Hess requested to resolve the charges informally. Thereafter, the parties entered into discussions and were able to reach a resolution. By entering into this Consent Agreement, Dr. Hess waives the right to a hearing and appeal on the charges in Docket No. 11-20. Dr. Hess has a disciplinary history with the Board of a censure and civil penalty in 1992 and probation with client reimbursement in 1997.

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 Veterinary Practice Act, Agriculture Article §§ 2-301 through 2-316, 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. 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

Dr. Hess, 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 Board has sufficient evidence to find, as fact, and conclude as a matter of law that he did violate certain regulations adopted under the Veterinary Practice Act, specifically, COMAR 15.14.01.10 pertaining to record keeping, and COMAR 15.14.01.07 pertaining to professional judgment and practice. On or about April 13 through June 14, 2010, Dr. Hess failed to maintain adequate records for a six-year-old spayed female Yorkshire Terrier, "Kelsey," presented for limping and a possible broken hind leg by Brenda Clark, when he failed to document in "Kelsey's" record that he moved a pin on or before the dog was re-examined post-operatively on April 26, 2010, and when he failed to clearly indicate in "Kelsey's" record what happened with the patient between April 26 and June 14, 2010, when a second surgery was indicated, but not performed. Additionally, on or about April 13, 2010, Dr. Hess failed to provide the minimal standards of care expected of a veterinarian in this State when he failed to take films of adequate quality and positioning, which resulted in his inability to determine proper pin placement to treat "Kelsey's" fractured right tibia. Taking all the facts and circumstances into consideration, including the severity of the violation and Dr. Hess's prior disciplinary history, the Board concluded that the most reasonable and appropriate resolution in these matters included the following sanctions.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 30th day of September, 2011, by the Maryland State Board of Veterinary Medical Examiners, ORDERED that:

a. For the violations of COMAR 15.14.01.10 Record Keeping and COMAR 15.14.07 Professional Judgment and Practice, Dr. Hess is assessed a civil penalty in the total amount of $1,100.00, ($300.00 for each of two record-keeping violations and $500.00 for the professional judgment and

practice violation) payment to be made to the Maryland State Board of Veterinary Medical Examiners ("SBVME") within **30** days of the date of this Order.

b. Dr. Hess's License No. 1850 shall be suspended for 1 week (stayed). The stay of suspension of the license is contingent upon compliance with the conditions of probation.

c. Dr. Hess shall serve a period of probation of 6 months. While on probation, the veterinarian will 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 will result in the stay being lifted, and the Board ordering the veterinarian to comply with the sanction; in this case, suspension of the license for up to one week.

d. As a condition of probation, Dr. Hess shall complete six credit hours of continuing education (CE) in orthopedic surgery, as **preapproved** by the Board. The veterinarian shall forward to the Board documentation from the CE provider showing proof of completion of the CE credits required under this Order. Proof shall include Dr. Hess'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 credit 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, Jeffrey Hess, 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 four pages, including this page. I sign this Consent without reservation as my voluntary act after having had an opportunity to consult with counsel, and I acknowledge that I fully understand the language, meaning, and terms of this Consent Agreement.

9/26/2011
Date

Jeffrey L. Hess, D.V.M.

NOTARY

STATE OF MD

CITY/COUNTY OF Harford

I HEREBY CERTIFY that on this 20 day of Sep, 2011, before me, a Notary Public of the State and City/County aforesaid, personally appeared Jeffrey L. Hess, 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:

12-21-13