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

IN THE MATTER OF:	*	
HOOMAN A. POOYA, D.V.M. LICENSE NO. 5970	*	DOCKET NO. 20-85
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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order ("Consent Agreement"), dated this 4th day of April 2022, is between the State Board of Veterinary Medical Examiners ("SBVME" or "Board") and Hooman A. Pooya, D.V.M. ("Dr. Pooya"), License No. 5970. This Consent Agreement resolves a case arising from a complaint filed with the SBVME which was assigned Docket No. 20-85, alleging that Dr. Pooya violated the Veterinary Practice Act, Md. Code Ann., Agric. §§ 2-301 – 2-316 and related Code of Maryland Regulations ("COMAR") 15.14.01 – 15.14.17 set forth herein.

On March 7, 2022, Dr. Pooya, after receiving written notice of his due process rights, agreed to resolve this case under the terms and conditions reflected in this Consent Agreement without the need for formal charges. By signing this Consent Agreement, Dr. Pooya agrees to waive his right to formal charges and a hearing in Docket No. 20-85 and further agrees to the terms and conditions of this Consent Agreement.

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. § 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. Agric. § 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 civil penalty standards. Md. Code Ann., State Gov't. § 10-1001(b); COMAR 15.14.11 (Civil Penalty Standards for Veterinarians).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Hooman A. Pooya, D.V.M., License Number 5970, by entering into and signing this Consent Agreement, having had the opportunity to seek the advice of counsel, 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. Pooya violated COMAR 15.14.01.07 (Professional Judgment) as set forth herein:

1. Dr. Pooya is a veterinarian licensed to practice in Maryland, where he has been licensed since 2006. At the time of the events giving rise to this Consent Agreement, Dr. Pooya was a veterinarian at Greenbriar Veterinary Hospital and Pet Resort ("Hospital") (License No. 10-072) located at 3051 Thurston Road, Frederick, MD 21704. Dr. Pooya has a history of prior discipline with the Board that includes a Consent Agreement in Docket No. 11-08A dated April 11, 2012, finding record keeping violations; a Default Decision and Order in Docket No. 13-17C finding professional conduct, professional judgment, and record keeping violations; and a Consent Agreement and Order in Docket No. 14-49 dated December 8, 2014, finding a professional conduct violation. Copies of these prior orders are attached as Exhibits A, B, and C.

2. This case involves the care and treatment provided to Gracie, a 4-year-old American Foxhound owned by James Armbrust ("Mr. Armbrust").

3. On January 29, 2020, Mr. Armbrust took Gracie to the Hospital because Gracie had been limping on the right hind leg for a week. The attending veterinarian performed a physical exam and noted that Gracie had toe-touching lameness of her right hind leg and was painful upon right caudal hip extension. Pelvic radiographs were recommended, to which Mr. Armbrust consented.

4. Gracie's radiographs showed a "focal linear lucency" (area of dark density that appears as a straight line) of the right coxofemoral joint. The attending veterinarian thought that Gracie might have a fracture in

her acetabulum or possibly edema (fluid) in the joint from soft tissue trauma to the right coxofemoral joint. Gracie's radiographs were sent to VitalRads for review.

5. The attending veterinarian prescribed Vetprofen to Gracie and recommended restricted activity and cage rest. Gracie was then discharged from the Hospital.

6. On February 13, 2020, Mr. Armbrust took Gracie to the Hospital for boarding. According to Mr. Armbrust, Gracie's lameness improved with the Vetprofen, but she was still limping. Mr. Armbrust asked for a recheck of Gracie's right hind leg while boarding at the Hospital. It was at this time that Dr. Pooya became Gracie's treating veterinarian.

7. Dr. Pooya performed a physical exam and found Gracie to have moderate weight-bearing lameness on her right hind leg. Dr. Pooya stated that Gracie was painful when her right stifle was palpated, and she had palpable synovial effusion (fluid build-up within the knee). Further, Dr. Pooya noted that Gracie was tense when he was palpating for a "thrust and drawer" (a test used for the diagnosis of a cranial cruciate ligament "CCL" rupture).

8. Dr. Pooya spoke with Mr. Armbrust by telephone and told him that he suspected Gracie had a ruptured right CCL. Dr. Pooya recommended sedating Gracie for right stifle radiographs. Mr. Armbrust consented.

9. Dr. Pooya sedated Gracie with Dexdomitor and butorphanol intravenously to perform radiographs. Dr. Pooya found that Gracie's radiographs showed a small osteophyte (bony growth) along the lateral tibial plateau (uppermost part of the bone that attaches to the knee joint) and moderate synovial effusion of the right stifle. Under sedation, Dr. Pooya found that Gracie had a positive thrust test, but she was still too tense for an accurate drawer test. Dr. Pooya diagnosed Gracie with a partially torn right CCL.

10. Dr. Pooya spoke again with Mr. Armbrust by telephone and recommended an orthopedic consultation to discuss Gracie's surgical options. Dr. Pooya recommended that Mr. Armbrust continue administering Vetprofen to Gracie and restricting her exercise. Gracie continued to board at the Hospital until February 17, 2020.

11. On February 18, 2020, Mr. Armbrust took Gracie back to the Hospital for an orthopedic consultation with Dr. Pooya. According to the medical record, Dr. Pooya discussed CCL disease and the recommended surgical options with Mr. Armbrust. Dr. Pooya discussed a tibial plateau leveling osteotomy ("TPLO") and a modified retinacular imbrication technique (MRIT aka "lateral suture") to correct Gracie's ruptured CCL. Further, Dr. Pooya told Mr. Armbrust about the Hospital's rehabilitation program, which Dr. Pooya recommended for Gracie's post-operative recovery.

12. On February 27, 2020, Mr. Armbrust dropped Gracie off at the Hospital for her right MRIT surgery. Gracie had pre-operative bloodwork performed, and there were no significant findings.

13. Dr. Pooya performed Gracie's right MRIT surgery. According to the medical record, Gracie's right stifle was surgically stable. There was no evidence of a medial meniscal injury (damage to the meniscus due to instability in the knee joint). Post-operative radiographs and laser therapy were performed on Gracie's right stifle. Gracie had an uneventful recovery from surgery and remained hospitalized overnight.

14. On February 28, 2020, a Hospital veterinary assistant performed Gracie's second laser therapy. The veterinary assistant stated that Gracie was toe touching occasionally. Gracie continued to board at the Hospital until she was discharged on March 3, 2020.

15. On March 5, 2020, Kim Armbrust ("Ms. Armbrust") took Gracie to the Hospital for a recheck exam. Gracie was examined by another Hospital veterinarian, who found had mild to moderate swelling of her right stifle. The remainder of Gracie's exam was normal. Ms. Armbrust spoke to Angela Parks ("Ms. Parks"), a registered veterinary technician ("RVT") at the Hospital, about Gracie's upcoming rehab sessions and the recommended "at home exercises." Gracie continued to board at the Hospital and was discharged on March 9, 2020.

16. On March 12, 2020, Mr. Armbrust returned to the Hospital with Gracie for staple removal (from her right hind leg) and a rehab session with Ms. Parks, the RVT. Ms. Parks noted that Gracie was non-weight bearing and would occasionally toe-touch. Ms. Parks also found that Gracie was weight bearing on the right hind leg while walking on the underwater treadmill. Ms. Parks removed Gracie's skin staples from her right hind leg. Gracie continued to board at the Hospital and was discharged on March 16, 2020.

17. On March 19, 2020, Gracie returned to the Hospital for her three-week recheck with Dr. Pooya. Mr. Armbrust told Dr. Pooya that Gracie was not using her right hind leg.

18. Dr. Pooya performed a physical exam and noted that Gracie was non-weight bearing on her right hind leg. Dr. Pooya stated that Gracie's right stifle had a moderately decreased range of motion ("ROM"), and she yelped with extreme ROM. Further, Dr. Pooya stated that Gracie had a negative drawer and thrust test.

19. Dr. Pooya told Mr. Armbrust that, "Gracie may just not be a very stoic dog and may need ankle weights to get her to use it." Dr. Pooya suspected that Gracie was anticipating pain from memory, which was why she was reluctant to use her right hind leg. Dr. Pooya told Mr. Armbrust that he did not palpate any instability in Gracie's right stifle.

20. Dr. Pooya recommended that Gracie use ankle weights to encourage her to use her right hind leg more often. Dr. Pooya recommended continued rehab for five additional weeks.

21. On March 19, 2020, Gracie had an additional rehab session with Ms. Parks. Ms. Parks noted that Gracie was completely non-weight bearing during this rehab session. Ms. Parks recommended several at-home rehab exercises, such as leash walking, passive range of motion, and warm compressing. Gracie was discharged from the Hospital.

22. On March 24, 2020, Gracie had an additional rehab session with Ms. Parks. Ms. Parks noted that Gracie was initially non-weight bearing on the right hind leg but did bear weight three times while walking on the treadmill. Ms. Parks recommended that Mr. Armbrust start using a command at home to get Gracie to bear weight on her right hind leg.

23. On March 26, 2020, Ms. Armbrust called the Hospital and spoke to a receptionist. Ms. Armbrust told Ms. Sullivan that Gracie was not using her right hind leg at all and requested to talk to Dr. Pooya.

24. Subsequently, Dr. Pooya spoke with Ms. Armbrust by telephone. Dr. Pooya told Ms. Armbrust, "Gracie may have learned that she gets around really well without using the limb that once was a source of pain/inflammation and she may be experiencing anticipatory pain." Dr. Pooya told Ms. Armbrust that

Gracie never showed pain with previous palpations of her right stifle and there was never any instability noted. Dr. Pooya recommended that Gracie continue her rehab sessions.

25. Following Dr. Pooya's conversation with Ms. Armbrust on March 26, 2020, Gracie had a "mini session" of rehab with Ms. Parks. Ms. Parks stated that she tried placing a syringe cap on Gracie's left hind leg and a one-pound weight on her right leg, but it did not encourage Gracie to bear weight on her right hind leg. Ms. Parks recommended additional at home rehab sessions for Gracie and was discharged Gracie from the Hospital.

26. According to the medical record, Mr. and Ms. Armbrust had a rehab appointment scheduled for Gracie on April 2, 2020, but they did not keep it. Unfortunately, according to Mr. and Ms. Armbrust, Gracie's condition continued to deteriorate.

27. On June 4, 2020, Mr. and Ms. Armbrust took Gracie to Buckeystown Veterinary Hospital ("BVH") (License No. 10-00390) for an orthopedic consult. The BVH veterinarian performed a physical exam and found that Gracie "holds up her right hind leg, barely flexes or extends beyond the 30-degree angle, stifle was hard, boney and hot."

28. The attending veterinarian sedated Gracie and performed a right lateral stifle radiograph, which showed a "huge ball of proliferative bone that obliterates the joint space." The veterinarian told Mr. and Ms. Armbrust that Gracie would need a right hind leg amputation.

29. Mr. Armbrust later filed a complaint with the Board arising from Gracie's care at the Hospital.

30. The Board opened a case and conducted an investigation and a review of all evidence, including the medical records. In addition, the Board arranged for expert witness review of Gracie's radiographs. After considering all of the evidence, the Board found that Dr. Pooya provided substandard care to Gracie before and after the surgery.

31. COMAR 15.14.01.07A (Professional Judgment and Practice) provides that: "[a] veterinarian, when caring for and treating a patient, shall conform to those minimum standards of care and treatment which are customary among veterinarians in this State." Dr. Pooya failed to satisfy the applicable standard in his care and treatment of Gracie in several ways.

32. First, Dr. Pooya's interpretation of the pre-operative radiographs was substandard, given his training and experience. As the expert reviewer opined following his review of the radiographs taken on February 13, 2020: "a veterinarian competent in the surgery performed in this case (lateral suture stabilization) should be able to recognize the lack of any stifle joint effusion or degenerative changes that would be consistent with cranial cruciate ligament injury and could have sought an interpretation by a board-certified radiologist if the radiographic findings did not fit the clinical picture." In addition, the reviewer found that there were subtle signs of a right proximal tibial aggressive disease consistent with a primary bone tumor or less likely fungal osteomyelitis present in the February 13, 2020 radiographs which Dr. Pooya failed to observe. This is the tumor recognized by the BVH veterinarian in June of 2020.

33. Second, Dr. Pooya's failure to recommend or perform additional diagnostics after the surgery when Gracie was not recovering as expected was not in accordance with the standard of care. At a minimum, Dr. Pooya should have recommended repeat radiographs following the three-week recheck appointment and not simply attributed Gracie's lack of progress as "anticipating pain." Had he done so, Dr. Pooya might have identified the mass and recognized that it was the cause of Gracie's pain.

Taking the facts and circumstances into consideration, including the nature of the violation(s), the veterinarian's disciplinary history, which included a prior substandard care violation, his acceptance of responsibility, and his good faith cooperation in resolving this matter, the Board concluded that the most reasonable and appropriate resolution includes the sanctions set forth below.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 4th day of April, 2022, by the State Board of Veterinary Medical Examiners, ORDERED that:

(a) For violating COMAR 15.14.01.07 (Professional Judgment) in providing care and treatment to Gracie, a 4-year-old American Foxhound owned by James Armbrust, by failing to correctly interpret pre-surgical radiographs and failing to recommend post-surgical diagnostics to determine why Gracie was not progressing as expected, Dr. Pooya is assessed a civil penalty of $1,000;

(b) Dr. Pooya shall pay the civil penalty in monthly installment of $250, with the first installment due on April 15, 2022, and each subsequent installment due on the 15th of the three proceeding months. Payment should be made by checks payable to the Maryland Department of Agriculture ("MDA") with the notation "SBVME – 20-85" sent to the MDA at 50 Harry S. Truman Parkway, Annapolis, MD 21401;

(c) As an additional requirement of this Consent Agreement, Dr. Pooya shall complete three hours of continuing education ("CE") in radiology. The CE proposed to be taken to satisfy this requirement shall be submitted to the Board's Executive Director, Nathaniel Boan, by email (Nathaniel.boan@maryland.gov) and approved by the Board in advance to ensure that will satisfy the requirements of this agreement;

(d) The CE shall be completed and verification provided to the Board within sixty (60) days from the date of this Order. Verification should be sent by email to Nathaniel Boan, Executive Director. Proof from the CE provider shall include the veterinarian's name, the number of hours of CE completed, the topics covered, and the date(s) the CE was given. This CE will not count toward the eighteen (18) credit hours required annually for re-registration of the veterinary license. To verify completion of the annual CE requirements and the CE required by this Consent Agreement, the Board may conduct an audit of the veterinarian's CE records for relevant years; and

(e) This Consent Agreement is a public order.

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland, this 4th day of April, 2022.

STATE BOARD OF VETERINARY MEDICAL EXAMINERS

/NED

Elizabeth Callahan, D.V.M.
President
State Board of Veterinary Medical Examiners
Maryland Department of Agriculture

CONSENT

I, Hooman A. Pooya, 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 to issue and enforce this Consent Agreement. To resolve this matter, I agree to accept and submit to the foregoing Consent Agreement, consisting of 10 pages. I sign this Consent Agreement without reservation as my voluntary act and deed after having had an opportunity to consult with counsel. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Agreement.

Date: 3/30/22

Hooman A. Pooya, D.V.M.