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

IN THE MATTER OF:	*	
KEVIN B. SMITH, DVM LICENSE NO. 4456	*	DOCKET NO. 22-82
BELTWAY ANIMAL HOSPITAL HOSPITAL LICENSE NO. 03-006	*	

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CIVIL PENALTY FINAL ORDER

This Civil Penalty Final Order ("Order"), dated this 15th day of April, 2022, is issued by the Maryland State Board of Veterinary Medical Examiners ("Board" or "SBVME") against Kevin B. Smith, DVM ("Dr. Smith"), License No. 4456, the responsible veterinarian at Beltway Animal Hospital ("Hospital"), License No. 03-006, located at 8702 Loch Raven Boulevard, Baltimore, MD 21286.

This Order confirms Dr. Smith's agreement to resolve Docket No. 22-82 without the issuance of formal charges. By correspondence with Board counsel on April 16, 2022, Dr. Smith accepted the terms and conditions of this Order, including the findings that he violated the Maryland Veterinary Practice Act, Md. Code Ann., Agric. §§ 2-301 - 2-316, ("Veterinary Practice Act") and related Code of Maryland Regulations ("COMAR") 15.14.01 – 15.14.17. Before agreeing to this Order, Dr. Smith was advised in writing regarding his due process rights, including the right to receive formal notice of charges, request a hearing, retain legal counsel, and all other rights under Agric. § 2-311.

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 and related COMAR 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 or veterinary practitioner . . . [f]ails to comply with Board rules and regulations after receiving a license [.]" Md. Code Ann., Agric. § 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 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 these violations, the good faith of the violator, and the history of prior violations, as well as the Board's 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. Smith, after having the opportunity to seek the advice of legal counsel, voluntarily waived his right to formal charges and a hearing and agreed to pay the civil penalty of $700. In so doing, Dr. Smith acknowledges that the Board has sufficient evidence to find, as fact, and conclude as a matter of law that he violated COMAR 15.14.01.12C (Expired Medications) as follows:

1. Dr. Smith is a veterinarian who has been licensed to practice in Maryland since 1995. Dr. Smith is the responsible veterinarian at the Hospital. He has no disciplinary history with the Board involving expired medications.

2. On February 8, 2022, during an annual inspection of the Hospital, Board Inspector Ellen James ("Inspector James") found at least fourteen (14) expired medications in the Hospital's working stock, with the oldest dating back to 2016. In addition, there were secondary containers of medication present that were not labeled with expiration dates. These included an open tube of Neomycin, Polymyxin, and Bacitracin and Vetropolycin Ophthalmic, both of which expired in December of 2016.

3. Inspector James prepared a Veterinary Hospital Inspection Report, reflecting her findings on February 8, 2022 and issued a COMAR Violation Sheet reflecting the expired medications found. Inspector James also prepared a complete list of expired medications found during the inspection, which was signed by Dr. Smith

4. Although the Hospital had not been charged previously with having expired medications in its working stock, forty-two (42) expired medications were identified during an inspection in August of 2014. *See* Veterinary Hospital Inspection Report, attached as Exhibit A.

5. COMAR 15.14.01.12-3A prohibits veterinarians from administering expired medications to an animal, and COMAR 15.14.01.12-3C requires that expired medications be packaged and kept separate and apart from unexpired medications until disposal of such medications to prevent such administration. Dr. Smith violated

COMAR 15.14.01.12-3C by allowing expired medications to be stored with non-expired medications in the working stock of the Hospital at which he serves as the responsible veterinarian.

Taking all the facts and circumstances into consideration, including the nature of the violation, the veterinarian's lack of prior discipline for expired medications, and the veterinarian's good faith effort to resolve this matter promptly, the Board concluded that the most reasonable and appropriate resolution in this matter was a civil penalty only.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 15th day of Apr. 1, 2022, by the Maryland State Board of Veterinary Medical Examiners, **ORDERED:**

(a) That for the violation of Md. Code Ann., Agric. § 2-310(8) and COMAR 15.14.01.12-3C, Kevin B. Smith, DVM (License No. 4456), the responsible veterinarian at Beltway Animal Hospital (License No. 03-006), is assessed a civil penalty of $700;

(b) The civil penalty shall be paid within thirty (30) days from the date of this Order by check payable to the Maryland Department of Agriculture ("MDA") with the notation ("SBVME 22-82") and mailed to MDA at the address below;

(c) The Board acknowledges full payment of the $700 civil penalty by check received on or about April 15, 2022; and

(d) This is a public order.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

/NEB

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