

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

IN THE MATTER OF:

ERNEST FIORAMONTI, DVM
LICENSE NO. 1912

DOCKET NO. 23-128

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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order ("Consent Agreement"), dated this 27th day of February 2024, is between the State Board of Veterinary Medical Examiners ("SBVME" or "Board") and Ernest Fioramonti, DVM ("Dr. Fioramonti"), License No. 1912. This Consent Agreement resolves a case arising from a complaint filed with the SBVME on June 29, 2023, assigned Docket No. 23-128, alleging that Dr. Fioramonti did not satisfy 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, as set forth herein.

On February 20, 2024, Dr. Fioramonti, having been advised in writing regarding his due process rights and while represented by legal counsel, agreed to resolve this case under the terms and conditions reflected in this Consent Agreement. By signing this Consent Agreement, Dr. Fioramonti agrees to waive his right to formal proceedings in this case, including the issuance of charges and a hearing. He 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 not satisfying the provisions of the Veterinary Practice Act and related COMAR regulations adopted under 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

By entering and signing this Consent Agreement after having had the opportunity to seek the advice of legal counsel, Ernest Fioramonti, DVM, License Number 1912, 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. Fioramonti did not satisfy COMAR 15.14.01.07 (Professional Judgment and Practice) and COMAR 15.14.01.10 (Record Keeping) as described below:

1. Dr. Fioramonti has been a veterinarian licensed to practice in Maryland since 1976.
2. At the time of the events described herein, Dr. Fioramonti was the co-owner and responsible veterinarian at Towson Veterinary Hospital ("TVH") (License No. 03-029), located at 716 North York Road, Towson, MD 21204.
3. This case involves care and treatment provided to Ferrari, a 3-year-old male mixed Pit Bull owned by Jabari Allen ("Mr. Allen").
4. On June 19, 2023, Mr. Allen called TVH to request a same-day appointment for Ferrari due to concerns about anal gland issues. TVH agreed to fit Ferrari in at 5:30 p.m. When Ferrari presented for the appointment, Dr. Fioramonti was the attending veterinarian.
5. According to TVH's medical records, Mr. Allen requested that Ferrari's anal glands be flushed and treated as had been done at an unidentified urgent care facility six months prior.
6. TVH's medical records reflect that Dr. Fioramonti anesthetized Ferrari and flushed his anal glands.
7. In a statement to the Board, Dr. Fioramonti offered additional details describing Ferrari's care. Dr. Fioramonti stated that by the time he was ready to treat Ferrari, his head surgical nurse had already left for the day. Dr. Fioramonti examined Ferrari with the help of two staff members. Upon examination, Ferrari had a temperature of 104 degrees and a ruptured left anal gland, which was bleeding. Dr. Fioramonti

recommended suturing the anal gland. According to Dr. Fioramonti, Mr. Allen declined and wanted him to open the anal gland and flush it.

8. Because Ferrari was “reactive,” Dr. Fioramonti told Mr. Allen that Ferrari would need to be sedated before the procedure. Further, Dr. Fioramonti advised Mr. Allen that Ferrari would need all his core vaccines updated before the dog could be hospitalized. Dr. Fioramonti vaccinated Ferrari and performed SNAP 4DX and fecal tests. Dr. Fioramonti gave Mr. Allen a verbal estimate of the charges for the treatment proposed, and Mr. Allen consented.

9. With the help of other staff members, Dr. Fioramonti administered the pre-anesthetic and anesthetic drugs to Ferrari, flushed the left anal gland duct, and cleaned the abscessed area.

10. After the procedure, Ferrari was placed on the exam room floor, where the dog was monitored while he recovered. Dr. Fioramonti stated that once Ferrari was “stable and started to wake up,” staff turned the lights out and closed the door so Ferrari could “sleep off the anesthesia.” Dr. Fioramonti agreed to stay late at TVH until Mr. Allen arrived.

11. Dr. Fioramonti advised the Board that he and the night staff regularly checked on Ferrari until the dog was ready to go home. Dr. Fioramonti spoke to Mr. Allen about Ferrari’s case before discharging him and dispensing Cefpodoxime and Carprofen to be administered at home.

12. According to Mr. Allen, when he arrived home, Ferrari began choking. Mr. Allen discovered two gauze squares in Ferrari’s mouth, which he pulled out of Ferrari’s mouth and throat.

13. Mr. Allen later called TVH and spoke with Dr. Fioramonti.

14. Ferrari did not suffer lingering issues because of this incident.

15. On June 29, 2023, Mr. Allen submitted a complaint to the SBVME alleging that Dr. Fioramonti’s care of Ferrari was substandard.

16. The Board opened a case and investigated, which included obtaining medical records and statements from Dr. Fioramonti.

17. Dr. Fioramonti stated that the day after Ferrari’s procedure, Mr. Allen called and told him that Ferrari had vomited up a “cloth material.” Dr. Fioramonti apologized to Mr. Allen and said Ferrari might

have ingested a 4 x 4 gauze sponge. However, Dr. Fioramonti did not know how or where Ferrari found the gauze sponge. Dr. Fioramonti later spoke with TVH staff; no one recalled seeing Ferrari eat or choke on anything. Subsequently, Dr. Fioramonti met with his staff to discuss cleaning and record-keeping protocol improvements for the practice.

18. After its review, the Board identified deficiencies in the care Dr. Fioramonti provided and in the records he prepared.

19. 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.”

20. Dr. Fioramonti did not satisfy the applicable standards by not providing Ferrari with adequate monitoring after the dog’s anal glands treatment. A reasonable veterinarian, acting according to the standard of care, would not leave a recovering patient in an enclosed room, out of the sight of staff, and without monitoring. While not certain, Ferrari likely ingested the gauze or sponges while left alone in the exam room.

21. In addition, Dr. Fioramonti’s medical records did not meet Board standards. COMAR 15.14.01.10A (Record Keeping) requires, for a companion pet animal, that a veterinarian prepare a legibly written record that accurately and thoroughly reflects the treatment provided, including the progress and disposition of the case. COMAR 15.14.01.10A(6) requires that the record include documentation of the animal’s condition, as evidenced through a physical examination not more than twelve hours before administering anesthesia, injectable sedative, or injectable tranquilizing agent. COMAR 15.14.01.10A(8) requires that if medication is given, the record must contain the amount in milligrams or the volume and concentration of the medication used, as well as the frequency and route of administration. COMAR 15.14.01.10A(10) specifies that the medical record shall include a surgery and anesthesia log, if applicable.

22. Dr. Fioramonti’s records from Ferrari’s treatment do not satisfy Board standards in several ways. First, Dr. Fioramonti administered vaccines to Ferrari, which are not documented in the record (although they are mentioned in billing statements). Second, the record of Ferrari’s procedure did not include an

anesthesia log, as required by the Board's regulations. In his statement, Dr. Fioramonti informed the Board that he used two anesthetic drugs during Ferrari's procedure (2 cc of midazolam IV and 2 cc of ketaset IV). However, like the vaccines, these medications were listed in the payment invoices but not recorded as part of the patient's medical record.

23. Based on the records, the Board was also unsure whether Dr. Fioramonti performed a complete physical examination of Ferrari. Dr. Fioramonti has stated that he performed a thorough physical examination by checking each of the body systems identified in pre-filled fields that appear in the "Physical Exam" box in the computerized records. He explained that if his examination revealed any abnormal findings, those would have been identified and noted in the applicable field. While the Board accepts this explanation, without Dr. Fioramonti's additional statements, it is unclear whether each of the body systems listed in the "Physical Exam" box was assessed based only on the records.

24. Dr. Fioramonti apologized for the record-keeping deficiencies in his response to the Board. He stated that this was an after-hours appointment that was scheduled earlier that day. His surgical nurse, who would normally prepare initial notes on the procedure, had left for the night when he started Ferrari's treatment. Dr. Fioramonti intended to complete the medical records later in the evening but did not do so.

25. While the Board understands the challenges posed by after-hours appointments, this is Dr. Fioramonti's second record-keeping violation. In February 2023, Dr. Fioramonti entered into a Consent Agreement and Order (Docket No. 22-118) in which the SBVME found that Dr. Fioramonti did not satisfy the Board's record-keeping regulations by not documenting his assessment of lab work, differential diagnosis, assessment of the case or treatment plan, or client communications. Although he completed record-keeping continuing education as part of this previous Consent Agreement in Docket No. 22-118, Dr. Fioramonti did not prepare an adequate record reflecting Ferrari's care.

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

ORDER

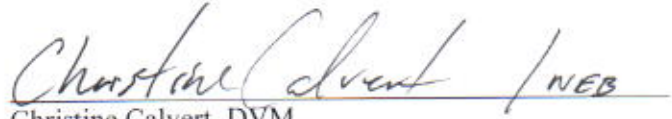
Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED by the State Board of Veterinary Medical Examiners, that:

- (a) For not satisfying COMAR 15.14.01.07 (Professional Judgment and Practice) in the care and treatment provided to Ferrari, a 3-year-old male mixed Pit Bull owned by Jabari Allen, by not providing adequate monitoring to the patient following an anesthetic event, Dr. Fioramonti is assessed a civil penalty of \$1500;
- (b) For not satisfying COMAR 15.14.01.10A (Record Keeping) by not documenting vaccines administered, not documenting required information related to medications administered, and not preparing an anesthesia log for his treatment of Ferrari, a 3-year-old male mixed Pit Bull owned by Jabari Allen, Dr. Fioramonti is assessed a civil penalty of \$5000, with \$2000 stayed, as provided herein;
- (c) Dr. Fioramonti shall pay the non-stayed portion of the civil penalty (\$4500) within sixty (60) days from the date of this Consent Agreement by check payable to the Maryland Department of Agriculture ("MDA") with the notation "SBVME – 23-128" sent to the MDA at 50 Harry S. Truman Parkway, Room 102, Annapolis, MD 21401 – Attn: Nathaniel Boan;
- (d) Dr. Fioramonti shall complete nine (9) hours of continuing education ("CE"), pre-approved by the Board. Three of the CE hours shall address anesthesia recovery. The remaining six hours shall address medical record keeping; however, the requirement to complete record keeping CE shall be stayed if Dr. Fioramonti complies with all terms of Paragraph (f) of this agreement. To obtain Board approval for CE, the veterinarian shall send information about each course proposed to be taken along with attachments or links to course descriptions and syllabi by email to the Board's Executive Director, Nathaniel Boan ("Mr. Boan"), at Nathaniel.boan@maryland.gov;

- (e) The CE pertaining to anesthesia recovery shall be completed, and verification of completion provided to the Board within ninety (90) days from the date of this Consent Agreement. Verification should be sent by email to Mr. Boan. 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 towards the 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 audit CE records for relevant years;
- (f) As an additional condition of this Consent Agreement, Dr. Fioramonti shall submit to routine periodic audits and review of his medical records for one year. If, during these audits, the Board finds that Dr. Fioramonti's medical records have not improved and continue to lack elements required by the Board's regulations, upon written notice to Dr. Fioramonti, the stayed portions of the civil penalty for record keeping deficiencies and the record keeping CE shall become unstayed. The civil penalty shall become due and payable within thirty (30) days, and Dr. Fioramonti shall have thirty (30) days to complete six (6) hours of CE in record keeping (pre-approved by the Board); and
- (g) This Consent Agreement is a public order.

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland, this
27th day of February, 2024.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

A handwritten signature in cursive script, reading "Christine Calvert", followed by a horizontal line and the letters "NEB" in a stylized font.

Christine Calvert, DVM

Vice-President

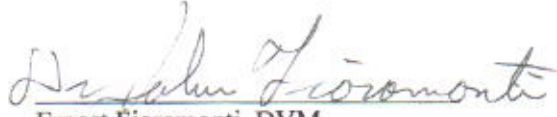
State Board of Veterinary Medical Examiners
Maryland Department of Agriculture

CONSENT

I, Ernest Fioramonti, DVM, 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 to issue and enforce this Consent Agreement. To resolve this matter, I agree to accept and submit to the foregoing Consent Agreement, consisting of nine (9) pages, including this Consent. I sign this Consent Agreement without reservation as my voluntary act and deed after having had an opportunity to consult with counsel. I fully understand and comprehend the language, meaning, and terms of this Consent Agreement.

Date:

2/22/24


Ernest Fioramonti, DVM