

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

IN THE MATTER OF:

JASON ORENSTEIN, DVM
LICENSE NO. 4849

DOCKET NO. 23-116

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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order ("Consent Agreement"), dated this 29th day of March, 2024, is between the State Board of Veterinary Medical Examiners ("SBVME" or "Board") and Jason Orenstein, DVM ("Dr. Orenstein"), License No. 4849. This Consent Agreement resolves a case arising from a complaint to the SBVME filed on May 22, 2023, assigned Docket No. 23-116, alleging that Dr. Orenstein 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 March 27, 2024, Dr. Orenstein, 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. This agreement was reached following a Confidential Resolution Conference conducted on February 7, 2024. By signing this Consent Agreement, Dr. Orenstein 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 while represented by legal counsel, Jason Orenstein, DVM, License Number 4849, 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. Orenstein did not satisfy COMAR 15.14.01.07 (Professional Judgment and Practice) as described below:

1. Dr. Orenstein is a veterinarian licensed to practice in Maryland, where he has been licensed since 1997. At the time of the events described herein, Dr. Orenstein was the owner and responsible veterinarian at Animal World LLC (d/b/a Gambrills Vet Center) ("GVC" or "Hospital") (License No. 02-057), located at 1078 Md Route 3 – South, Gambrills, MD 21054.
2. This case involves care and treatment provided to Marty Byrd, an approximately two and one-half month old male kitten owned by Stacy Poma ("Ms. Poma" or "owner").
3. On April 30, 2023, Ms. Poma adopted Marty Byrd from a local rescue. Per the owner, the kitten started having diarrhea three days later, and the next day, he began vomiting. Marty was not eating much at this time but was drinking water and active, according to Ms. Poma, who attributed his vomiting and diarrhea to the change in his diet.
4. Ms. Poma returned to the rescue and obtained the specific food Marty Byrd had eaten there; however, the vomiting did not stop.
5. On Sunday, May 7, 2023, Ms. Poma walked into GVC because she thought they accepted walk-in emergencies. Marty Byrd was not an established patient at GVC, although another pet owned by Ms. Poma had been cared for there in the past. A GVC receptionist informed her that GVC was fully booked for

regular appointments that day. However, according to Dr. Orenstein's staff and corroborated in Ms. Poma's statement and recorded telephone conversation, Ms. Poma was offered an "emergency appointment" for an extra fee, a referral to an emergency hospital, or the first appointment the next day at GVC. Ms. Poma did not accept any of these options.

6. The next morning (Monday, May 8, 2023), Ms. Poma called GVC seeking an appointment for Marty Byrd. During that call with a different GVC receptionist, who was not aware of Ms. Poma's conversations the previous day, Ms. Poma did not indicate that Marty Byrd needed emergency care. The receptionist offered a 1:45 p.m. appointment, which Ms. Poma accepted. The visit was scheduled for administrative purposes as a "well visit" that did not require urgent attention.

7. When Ms. Poma arrived at GVC at 1:30 p.m., a GVC staff member told her that the veterinarian was running behind and that if she wanted to leave Marty Byrd at GVC, the veterinarian would call her after Marty Byrd had been examined. GVC staff advised her that the kitten would need to be picked up by 6 p.m. when the hospital closed. Ms. Poma provided the GVC office manager with a brief history for Marty Byrd, which was recorded in the patient's medical record. The recorded history reflects the following: **"O states that P has not eaten since Saturday and has had diarrhea and has been vomiting. No C/S. O feeds purina pro plan (free feeds). . ."** (emphasis added).

8. According to statements provided to the Board by Dr. Orenstein, Marty Byrd was triaged by a veterinary assistant¹, who found the kitten "weak but stable." No other assessments or observations were recorded to document the basis for this determination.

9. When she did not hear back from GVC later that afternoon, Ms. Poma called the hospital twice and was told that Marty Byrd had not yet been seen. The GVC staff member informed her that she did not need to pick Marty Byrd up by close of business at 6 p.m. and could come after she finished her work as the wait time was extended. . Ms. Poma arrived at GVC at 6:45 p.m. There is no evidence in the medical records

¹ At the time of these events, Ms. Tulino was a credentialed veterinary technician in a neighboring jurisdiction but was not a registered veterinary technician ("RVT") in Maryland.

that any staff members checked on Marty Byrd after Ms. Poma's calls that afternoon. Per Dr. Orenstein, the hospital server crashed that afternoon and medical records could not be updated during this period.

10. Dr. Orenstein, who was Marty Byrd's treating veterinarian, examined Marty Byrd at 6:15 p.m. Upon examination, Dr. Orenstein found that Marty Byrd was in poor condition, barely responsive, severely dehydrated, and depressed.

11. When Ms. Poma arrived at 6:45 p.m., Dr. Orenstein spoke with her in the reception area. He told Ms. Poma that Marty Byrd was very sick and might die without immediate treatment. Dr. Orenstein recommended bloodwork and a fecal sample. Dr. Orenstein provided a verbal estimate for the exam, bloodwork, and fecal test, and Ms. Poma consented.

12. Dr. Orenstein passed an intravenous catheter into Marty Byrd's jugular vein and got a drop of blood to check his glucose level. The blood glucose test revealed that Marty Byrd was hypoglycemic. After Dr. Orenstein administered dextrose, Dr. Orenstein saw an immediate improvement in Marty Byrd's condition. Marty Byrd became responsive and began meowing.

13. Dr. Orenstein told Ms. Poma that Marty Byrd had been in a hypoglycemic crisis but responded to dextrose. Dr. Orenstein recommended hospitalization and treating Marty Byrd with intravenous ("IV") fluids. Dr. Orenstein gave Ms. Poma a verbal estimate of the costs for hospitalizing Marty Byrd through the next day.

14. Ms. Poma asked to see the kitten. After some discussion with Dr. Orenstein, Ms. Poma elected to euthanize Marty Byrd. Dr. Orenstein has indicated that he tried to talk Ms. Poma out of euthanasia and discussed with her that one of his cats was in the exact same situation as "Marty" and recovered with treatment. Dr. Orenstein claims that Ms. Poma asked him to guarantee that "Marty" would make it through the next day if hospitalized, and Dr. Orenstein could not promise her that.

15. Ms. Poma filed a complaint with the SBVME on May 22, 2023, in which she expressed concerns about Dr. Orenstein's delay in examining and treating Marty Byrd.

16. The Board opened a case and investigated. As part of that investigation, Dr. Orenstein submitted several statements to the SBVME via his legal counsel detailing his treatment of Marty Byrd and his interactions with Ms. Poma. Additional statements were provided by employees of GVC.

17. Dr. Orenstein alleges, among other things, that given Marty Byrd's poor condition by the time he presented to GVC on May 8, 2023, Ms. Poma should have sought veterinary care much sooner or scheduled an emergency visit so that Marty Byrd's care could be prioritized. He further alleges that after he examined the patient, Ms. Poma was offered the appropriate treatment plan to address hypoglycemic shock.

18. After considering the evidence gathered during the investigation, the Board concluded that the timeliness with which Marty Byrd was examined and treated at GVC did not satisfy the standard of care for veterinarians in this State.

19. However, the Board also found that Marty Byrd was already very sick when he presented at GVC and that once he examined the patient and spoke with Ms. Poma about Marty Byrd's condition, the care Dr. Orenstein provided and his treatment recommendations were appropriate. Under the facts of this case, the Board could not conclude to a reasonable degree of medical certainty that the outcome would have been different if Marty Byrd had been examined and treated earlier. Most likely, the outcome would have been the same.

20. 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."

21. As the responsible veterinarian at GVC and Marty Byrd's attending veterinarian, Dr. Orenstein was responsible for the care the patient received while in GVC's custody, beginning at the time of intake. Ms. Poma dropped Marty Byrd off at GVC at 1:40 pm according to the time stamped medical records, for a 1:45 p.m. appointment. The duties of a responsible veterinarian at a hospital include training and supervising staff and establishing protocols for intake, monitoring, and care of patients that conform with the standard of care, including for drop off appointments.

22. While the appointment had been scheduled as a “well visit,” which, for administrative and scheduling purposes, did not provide Dr. Orenstein with advance notice that the patient was urgently in need of veterinary care, once hospital staff took the patient’s history and learned that the patient had not eaten for two days, and had a history of vomiting and diarrhea, and observed the patient’s lethargy, it should have been evident that the patient was unwell, particularly a patient as young as Marty Byrd.

23. Ms. Poma had only recently adopted Marty Byrd from a rescue and may not have recognized the severity of his illness. Many pet owners overlook serious medical issues, which is why when a veterinary hospital accepts custody of an animal, the veterinarian or designated staff should perform an intake assessment that includes a detailed patient history and an assessment of major systems. The assessment should be recorded in the patient’s medical record.

24. Veterinary assistants (and registered veterinary technicians) cannot diagnose or treat patients. However, they may be assigned responsibility for performing a preliminary patient assessment, as Dr. Orenstein’s experienced veterinary assistant did in this case. That assessment should be comprehensive enough to provide information about the patient’s status at intake, what support, if any, the patient would need until the veterinary examination, and how long a patient can wait before being examined or treated. When in doubt, a veterinary assistant or technician should be trained to communicate with the veterinarian about any unusual observations, allowing the veterinarian to decide whether the patient’s care should be prioritized over other matters in the hospital.

25. As part of the investigation, Dr. Orenstein provided statements from three staff members, including the veterinary assistant who triaged Marty Byrd, who observed that the patient was “weak” or “lethargic” at the time of intake. The information Ms. Poma provided when she dropped Marty Byrd off indicated that the patient had a history of vomiting and diarrhea. GVC staff recognized that Marty Byrd was unwell at this time because the patient was placed in a cage with water but no food due to the recent history of vomiting. These observations should have been communicated to Dr. Orenstein to determine whether it was appropriate to treat Marty Byrd as a “well-visit” or whether his care and monitoring should be prioritized.

26. Moreover, even patients assessed as stable upon intake should be monitored regularly, particularly a young patient in “weak” condition. Establishing protocols for patient monitoring is another responsibility of the supervising responsible veterinarian. While the events of the day in question included a full schedule with other patients in need of emergency care, the crash of the hospital computer system in the afternoon which necessitated canceling appointments and made the hospital patient census that Dr. Orenstein normally uses to prioritize patient care unavailable, and the presentation of a very ill kitten for what was scheduled as a well-visit created challenges, delaying the examination and treatment of a sick kitten for more than four hours without documented monitoring or examination does not satisfy the standard of care required of veterinarians in this State. Clear protocols, staff training, and established expectations for communication between non-veterinary staff and veterinarians are most important when the unexpected occurs, as they ensure that patients receive appropriate attention and care.

Taking the facts and circumstances into consideration, including the nature of the violation(s); the veterinarian’s disciplinary history (this is a second professional judgment offense); 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 Marty Byrd, an approximately two ½ month male kitten owned by Stacy Poma, by not appropriately triaging, monitoring, or examining the sick patient in a timely manner, Dr. Orenstein is assessed a civil penalty of \$600;
- (b) Dr. Orenstein shall pay the \$600 civil penalty 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 – 23-116” sent to the MDA at 50 Harry S. Truman Parkway, Room 102, Annapolis, MD 21401 – Attn: Nathaniel Boan;
- (c) This Consent Agreement is a public document.

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland, this 29th day of March, 2024.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

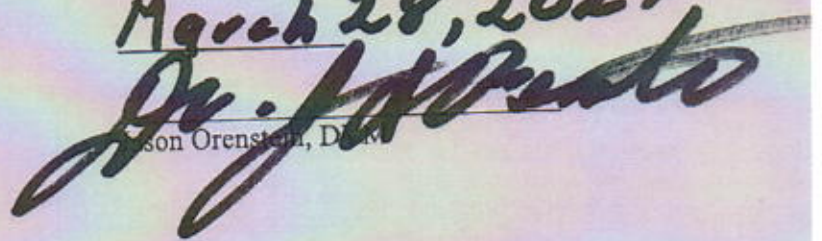


Elizabeth Callahan, DVM
President
State Board of Veterinary Medical Examiners
Maryland Department of Agriculture

CONSENT

I, Jason Orenstein, 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:

March 28, 2024

Jason Orenstein, DVM