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

IN THE MATTER OF:	*	
DESI KELLEHER, DVM LICENSE NO. 6444 Responsible Veterinarian	*	DOCKET NO. 24-96
DESI KELLEHER FREEMAN, DVM LLC D/B/A FEATHER, SCALES & TAILS VETERINARY HOSPITAL HOSPITAL LICENSE NO. 06-00267	*	

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CIVIL PENALTY FINAL ORDER

This Civil Penalty Final Order ("Order"), dated this 20th day of September, 2024, is issued by the Maryland State Board of Veterinary Medical Examiners ("Board" or "SBVME") against Desi Kelleher, DVM ("Dr. Kelleher"), License No. 6444, the owner and responsible veterinarian at Desi Kelleher Freeman, DVM LLC, d/b/a Feather, Scales & Tails Veterinary Hospital ("Hospital"), License No. 06-00267, located at 310 Woodward Road, Suite 3, Westminster, MD 21157.

This Order confirms Dr. Kelleher's agreement to resolve Docket No. 24-96 without the issuance of formal charges. By email to Board counsel on September 18, 2024, Dr. Kelleher accepted the terms and conditions of this Order, including the findings that she 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. Kelleher was advised in writing regarding her due process rights, including the right to receive formal notice of charges, request a hearing, retain legal counsel, and all other rights under Section 2-311 of the Veterinary Practice Act.

Under State law, the Board is the licensing body responsible for regulating the practice of veterinary medicine in this State. Its authority 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. Kelleher, after having the opportunity to seek the advice of legal counsel, voluntarily waived her right to formal charges and a hearing and agreed to pay the civil penalty of $2000. In so doing, Dr. Kelleher acknowledges that the Board has sufficient evidence to find, as fact, and conclude as a matter of law that she violated COMAR 15.14.01.12-3C (Expired Medications) as follows:

1. Dr. Kelleher is a veterinarian who has been licensed to practice in Maryland since 2009. Dr. Kelleher is the owner and responsible veterinarian at the Hospital. Dr. Kelleher has previously been disciplined by the Board in a case involving more than fifty expired medications found during an inspection of the Hospital. In Docket No. 23-50, the Board entered a Civil Penalty Final Order dated January 25, 2023, finding that Dr. Kelleher did not comply with the Board's expired medication requirements and imposing a civil penalty of $600, which Dr. Kelleher paid in accordance with the agreement.

2. On April 18, 2024, during an annual inspection, Board Inspector Ellen James ("Inspector James") conducted an inspection of the Hospital, during which she found eighteen expired medications mixed with the hospital's working stock of medications, with expiration dates ranging from 2020 through 2023. Some of the older medications included a bottle of injectable apomorphine HCL that expired in April of 2020, a bottle of injectable Adec that expired in April 2021, a bottle of injectable xylocaine that expired in May of 2022, and oral lidocaine that expired in June of 2022. These medications had expired before the prior Civil Penalty Final Order was entered.

3. Inspector James prepared a Veterinary Hospital Inspection Report reflecting her findings and issued a COMAR Violation Sheet noting that expired medications were found.

4. 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. Kelleher 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 she serves as the responsible veterinarian. This is a second time expired medications were found at the Hospital since 2022.

Taking all the facts and circumstances into consideration, including the nature of the violation, the veterinarian's 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 hereby **ORDERED** by the Maryland State Board of Veterinary Medical Examiners that:

(a) For the violation of Md. Code Ann., Agric. § 2-310(8) and COMAR 15.14.01.12-3C, Desi Kelleher, DVM (License No. 6444), the responsible veterinarian at Desi Kelleher Freeman, DVM LLC (d/b/a Feather, Scales & Tails Veterinary Hospital (License No. 06-00267), is assessed a civil penalty of $2000;

(b) The civil penalty shall be paid within sixty (60) days from the date of this Order by check payable to the Maryland Department of Agriculture ("MDA") with the notation ("SBVME 24-96") and mailed to MDA at the address below; and

(c) This Civil Penalty Final Order is a public document.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

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