

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

IN THE MATTER OF:

*

ELTON VYFHUIS, DVM
LICENSE NO. 5521

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DOCKET NO. 22-59

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CONSENT AGREEMENT AND ORDER

This Consent Agreement and Order (“Consent Agreement”), dated this 8th day of November 2024, is between the State Board of Veterinary Medical Examiners (“SBVME” or “Board”) and Elton Vyfhuis, DVM (“Dr. Vyfhuis”), License No. 5521. This Consent Agreement resolves a case arising from a complaint filed on December 21, 2021, with the SBVME, assigned Docket No. 22-59, alleging that Dr. Vyfhuis 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 September 5, 2024, Dr. Vyfhuis, having been advised in writing regarding his due process rights, agreed to resolve this case under the terms and conditions reflected in this Consent Agreement. Before reaching this agreement, Dr. Vyfhuis was given written notice of his due process rights, including the right to a hearing, to retain legal counsel, and all other rights afforded under the Veterinary Practice Act. By signing this Consent Agreement, Dr. Vyfhuis 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 instead 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, any history of prior violations, and 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 into and signing this Consent Agreement after having had the opportunity to seek the advice of legal counsel and while generally denying liability, Elton Vyfhuis, DVM, 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 he did not satisfy COMAR 15.14.01.07 (Professional Judgment and Practice) as described below:

1. Dr. Vyfhuis is a veterinarian licensed to practice in Maryland since 2002. At the time of the events described herein, Dr. Vyfhuis was working as a veterinarian at Waldorf Emergency Care ("WEC" or "Hospital") (License No. 08-00223), located at 3485 Rockefeller Court, Waldorf, MD 20602. Dr. Vyfhuis has no prior formal disciplinary action in Maryland.
2. This case involves care provided to Izzy, a 13-year-old spayed mixed dog. Owned by Sandy Ondrejcek ("Ms. Ondrejcek") and Jack Ondrejcek ("Mr. Ondrejcek").
3. On December 18, 2021, Mr. Ondrejcek took Izzy to WEC for abdominal pain because Izzy had eaten several cups of grease and became nauseous.
4. Kenneth Fox, DVM ("Dr. Fox") (License No. 4835), WEC's owner and responsible veterinarian, was Izzy's attending veterinarian. Dr. Fox performed Izzy's physical exam and noted that she had a distended tympanic abdomen. Dr. Fox was concerned that Izzy could be bloated. Dr. Fox recommended radiographs and bloodwork, and Mr. Ondrejcek consented.

5. Izzy's radiographs showed a distended rock-filled stomach with many rocks present. Dr. Fox recommended an abdominal exploratory procedure. Dr. Fox told Mr. Ondrejcek that Dr. Vyfhuis would perform Izzy's surgery later that evening or the following morning after Izzy was rehydrated.
6. Dr. Fox subsequently reviewed Izzy's case and radiographs with Dr. Vyfhuis, who agreed to perform Izzy's abdominal exploratory during his shift that night.
7. Dr. Vyfhuis started Izzy's abdominal exploratory/gastrotomy surgery at approximately 12:40 a.m. Dr. Vyfhuis found that Izzy's stomach had a tremendous amount of fine, gritty debris, including gravel, plastic, sticks, cotton, and fabric. Dr. Vyfhuis removed the debris, copiously flushed Izzy's stomach and peritoneal cavity, and suctioned the flushed fluid out. According to WEC's medical records, Izzy was under anesthesia for approximately 90 minutes. Post-operative radiographs of Izzy's abdomen were taken, and according to Dr. Vyfhuis, there was no evidence of any retained substances in her stomach. Izzy recovered from her surgery without any complications.
8. On December 19, 2021, Izzy's post-operative care was transferred to Dr. Fox. According to WEC's medical records, Izzy was resting comfortably then.
9. On December 20, 2021, Nancy McGuire, DVM ("Dr. McGuire") (License No. 5333), was Izzy's attending veterinarian. According to WEC's medical records, Dr. McGuire observed that Izzy was not eating, and her abdomen was distended. Dr. McGuire performed an abdominal-focused assessment with sonography for trauma ("aFAST") scan. Dr. McGuire noted that Izzy's stomach was severely distended with ingesta/fluid with a moderate amount of gas, and her duodenum and proximal jejunum were also distended.
10. Suspecting that Izzy had another obstruction, Dr. McGuire called the Ondrejeks and told them that Izzy needed another exploratory surgery. The Ondrejeks consented to the treatment plan.
11. At approximately 11:00 a.m. on December 21, 2021, Dr. McGuire started Izzy's second abdominal exploratory (gastrotomy). Dr. McGuire noted a large amount of free fluid in the abdomen, and she removed a large amount of small rock, grit, and sand-like material from Izzy's abdominal cavity. Dr. McGuire placed a nasogastric tube in Izzy and performed post-operative radiographs.

12. On December 21, 2021, Dr. McGuire spoke with Mr. Ondrejcek by telephone to report that while initially, she was concerned about another obstruction based on ultrasound findings when she re-explored Izzy's abdomen, there was an infection in the abdominal cavity from the gravel material.

13. Later that day, Izzy was drinking water and tolerating her syringe feedings, and she was discharged from WEC.

14. On December 22, 2021, Dr. McGuire saw Izzy at WEC for a recheck exam. According to WEC's medical records, Izzy was doing well and eating.

15. Ms. Ondrejcek submitted a complaint to the SBVME against Dr. Vyfhuis, alleging deficiencies in the care provided to Izzy on December 21, 2021. The Board opened a case and investigated. As part of its investigation, the Board requested that a boarded veterinary surgeon provide an expert report offering an opinion about the care provided to Izzy. Following his review of the case, the expert identified several areas in which the care provided by Dr. Vyfhuis could have been improved.

16. After considering the evidence gathered during the investigation, including the expert report and Dr. Vyfhuis' statement(s), the Board concluded that Dr. Vyfhuis provided substandard care to Izzy by failing to take appropriate action to prevent contamination during the surgery.

17. 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."

18. The expert reviewer found that Dr. Vyfhuis' efforts to prevent contamination during the surgery did not satisfy the standard of care expected of a reasonable veterinarian in this State.

19. From a medical and anatomic standpoint, the inside of the gastrointestinal tract is considered "dirty," which means that the material within the GI tract (intraluminal contents) must be managed to prevent the spillage of fluid or material into the abdomen. Standard techniques that are mandatory for gastric surgery to minimize abdominal contamination include (1) packing off the abdomen with absorbent laparotomy sponges and (2) placing stay sutures in the stomach to ensure the elevation of the stomach to prevent spillage into the abdomen.

20. While Dr. Vyfhuis maintains that he would have taken standard measures to prevent contamination, no evidence in the surgery report he prepared indicates that either of these standard gastrotomy surgical techniques was used. This failure to minimize abdominal contamination potentially caused the abdomen to become contaminated, leading to infection.

Considering the facts and circumstances, including the nature of the violation(s), the veterinarian's lack of disciplinary history, 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 below.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby 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 Izzy, a 13-year-old female mixed breed dog owned by Sandy and Jack Ondrejak, by failing to take expected standard measures to prevent contamination during Izzy's abdominal surgery, Dr. Vyfhuis is assessed a civil penalty of \$1500;
- (b) Dr. Vyfhuis shall pay the \$1500 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 – 22-59" sent to the MDA at 50 Harry S. Truman Parkway, Room 102, Annapolis, MD 21401 – Attn: Nathaniel Boan;
- (c) As an additional requirement of this Consent Agreement, Dr. Vyfhuis shall complete six (6) hours of continuing education ("CE"), pre-approved by the Board, in gastrointestinal/abdominal surgery. Dr. Vyfhuis must submit the CE proposed to satisfy this agreement to the Board in advance to obtain approval before completion. Approval requests shall be emailed to Nathaniel Boan, Executive Director, at

Nathaniel.boan@maryland.gov. The request should include a link to the CE, detailed information about the course content, or a syllabus;

- (d) The veterinarian shall complete the CE and send verification of completion to the Board within ninety (90) days from this Order, or within an alternative deadline approved by the Board, with verification emailed to Nathaniel Boan, Executive Director, at nathaniel.boan@maryland.gov. 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 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 document.

WITNESS the hand of the State Board of Veterinary Medical Examiners, State of Maryland,
this 8th day of November, 2024.

STATE BOARD OF VETERINARY
MEDICAL EXAMINERS



Patty Crankshaw-Quimby
Vice-President
State Board of Veterinary Medical Examiners
Maryland Department of Agriculture

CONSENT

I, Elton Vyfhuis, 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 seven (7) 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 this Consent Agreement's language, meaning, and terms.

Date:

Dr. Elton Vyfhuis, DVM
Dr. Elton Vyfhuis, DVM (Nov 8, 2024 10:55 EST)
Elton Vyfhuis, DVM

Vyfhuis - 22-59 - Final Consent Agreement

Final Audit Report

2024-11-08

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