

BEFORE THE KANSAS BOARD OF VETERINARY EXAMINERS

IN THE MATTER)
)
 OF)
 MATTHEW A. VANDERVELDE, DVM)
 License Number: [REDACTED])
 Respondent)
 _____)

Case No. 18030

FILED

MAR 21 2019

KANSAS BOARD OF
VETERINARY EXAMINERS

Pursuant to K.S.A. Chapter 77

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 19th day of March, 2019, the above captioned matter comes before the Kansas Board of Veterinary Examiners ("Board"), by agreement with Matthew A. VenderVelde, D.V.M. ("Respondent"), for the purpose of resolving the above captioned matter.

The parties knowingly and voluntarily agree as follows:

1. Respondent is and was at all times relevant to this matter licensed by the Board to practice veterinary medicine in Kansas pursuant to K.S.A. 47-817 *et seq.*, and amendments thereto. Board records reflect that the Respondent was issued veterinary license number [REDACTED] on or about June 6, 1981. The Respondent's license to practice veterinary medicine in Kansas is current and will expire on June 30, 2019.

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2. On or about September 21, 2018, information was received by the Board indicating that the Respondent may have violated certain provisions of the Kansas Veterinary Practice Act or the Kansas Administrative Regulations governing the practice of veterinary medicine in Kansas. A subsequent investigation revealed the following facts to be established by a preponderance of evidence:

- a. [REDACTED] ("Owner") owned a canine named Jagr. Jagr was scheduled to an elective surgery to have two (2) small, subcutaneous masses removed. Owner followed the pre-operative instructions, and did not allow Jagr to eat or drink since noon on September 18, 2018.
- b. On or about September 19, 2018, Owner arrived to Respondent's clinic at approximately 0730 hours. Respondent was the only person at the veterinary clinic when Owner and Jagr arrived. Respondent initially told Owner that Jagr would be ready to be discharged around noon on the same day.
- c. At 1101 hours, Respondent sent to Owner a text that said, "[REDACTED] Jagr is doing well but is going to be a mid afternoon release I believe. We had a snag and had to delay him an hour. The neck mass was a lipoma, fat cyst. The flank was a fibroma, a fibrous connective tissue benign mass. He should recover well and no return of the

- masses is expected. I let you know after lunch. Matt VanderVelde”.
- d. At 1531 hours, Respondent sent to Owner a text that said, “[REDACTED], Jagr is ready to go. We have has some anesthetic related vomiting this afternoon which I thought would abate but I ended up treating him for. A small number of dogs react to it in that fashion. Nothing life threatening. We will be here available until 5:00 then we have a euthanasia to perform after five.”
 - e. Owner arrived to the clinic approximately ten (10) minutes later. Jagr was brought up from the back area of the clinic. Owner immediately noticed that Jagr was swollen and distended. Specifically, Owner noted that Jagr’s “stomach bulged down below his ribs and outward”. Owner also noted that Jagr was drooling, distressed, cold to touch and panting. Owner asked Respondent why Jagr looked so swollen. Respondent told Owner that it was related to the vomiting experienced by Jagr. Respondent did not provide to Owner any instruction or information related to a possible concern for Gastric-Dilatation-Volvulus (“GVD”).
 - f. Respondent’s medical records are mostly illegible, and very difficult to read. There is no way to discern what treatment or services were rendered to Jagr on September 19, 2018.
 - g. Jagr was not able to get himself into the vehicle, and Owner had to lift him up. Once they returned home, Owner helped Jagr into the house. Jagr remained listless and cold to touch. Jagr was allowed to stay in the house for the night due to his lethargy. Owner assumed Jagr’s condition was related to the anesthetic reaction, but planned to take Jagr back to Respondent in the morning if there was no change in his condition.
 - h. On or about September 20, 2018, at approximately 0250 hours, Jagr managed to awaken Owner. Owner found him in great distress. Owner rushed Jagr to the emergency room.
 - i. The emergency room veterinarian told Owner that Jagr’s condition was consistent with GVD, but the only way to conclusively diagnose this condition was with surgery. Additionally, the emergency room veterinarian said that this condition was extremely life threatening, and that Jagr would needed to have had surgery within the first three (3) hours to have a 70% chance of surviving.
 - j. At 0430 hours, Owner made the decision to have Jagr euthanized.
 - k. At 0831 hours, Respondent sent to Owner a text that said, “[REDACTED], I just read the email sent to me from BluePearl. My heart sank when I read it. I was hopeful that he would pass the gas by it was not to be. Words cannot express how sorry we are for his passing. You gave him a great life. Matt VanderVelde.”

APPLICABLE LAW

3. K.S.A. 47-816(h)(1): Practice of veterinary medicine means, “To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury or other physical or mental condition; including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthesia or other therapeutic or diagnostic substance or technique on any animal including but not limited to acupuncture, surgical or dental operations, animal psychology, animal chiropractic, theriogenology, surgery, including cosmetic surgery, any manual, mechanical, biological or chemical procedure for testing for pregnancy or for correcting

sterility or infertility or to render service or recommendations with regard to any of the above and all other branches of veterinary medicine.”

4. K.S.A. 47-830(o)(4): The Board, in accordance with the provisions of the Kansas Administrative Procedure Act, may refuse to issue a license, revoke, suspend, limit, condition, reprimand or restrict a license to practice veterinary medicine or an institutional license for violation of or attempting to violate, directly or indirectly, any provision of the Kansas Veterinary Practice Act or any rules and regulations adopted pursuant to such act. Specifically:

- a. K.A.R. 70-7-1(h)(2)(D): Each veterinarian shall ensure that all patient records are legible and made contemporaneously with treatment services rendered; and contain a complete record of the physical examination findings and treatment or services rendered.
- b. K.A.R. 70-8-1(b): ...[D]emonstrating a willful or careless disregard for the health, welfare, or safety of a patient.

5. K.S.A. 47-842: In addition to the board's authority to refuse licensure or impose discipline pursuant to K.S.A. 47-830, and amendments thereto, the board shall have the authority to assess a fine not in excess of \$5,000 against a licensee for each of the causes specified in K.S.A. 47-830, and amendments thereto. Such fine may be assessed in lieu of or in addition to such discipline. The proceedings under this act shall be conducted in accordance with the Kansas Administrative Procedure Act, and the board shall have all the powers granted therein.

6. Respondent and the Board mutually desire to enter into this Consent Agreement and Final Order in lieu of further summary and adjudicative proceedings.

7. Respondent understands that by entering into this Consent Agreement and Final Order Respondent waives all rights to further adjudication of facts and law that could be determined pursuant to summary proceedings or a hearing conducted in accordance with the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.* in relation to Case No. 18030.

8. Respondent waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Act for Judicial Review, K.S.A. 77-601 *et seq.* in relation to Case No. 18030.

9. The Board accepts Respondent's waiver of rights and stipulations.

ORDER

WHEREFORE, the Board finds that Respondent is in violation of K.S.A. 47-830(o)(4), as defined in K.A.R. 70-7-1(h)(2)(D), specifically, Respondent failed to ensure that at all times patient records contain a complete record of the physical examination findings and treatment or services rendered. Additionally, Respondent's records are illegible and difficult to read.

FURTHER WHEREFORE, the Board finds that Respondent is in violation of K.S.A.

47-830(o)(4), as defined in K.A.R. 70-8-1(b). Specifically, Respondent failed to advise Owner of the potential risk for GVD and what to do if something happened to Jagr.

NOW THEREFORE, Respondent consents to the following terms and conditions, and the Board orders that:

10. Respondent is hereby fined \$500.00 for Respondent's violation of K.S.A. 47-830(o)(4), as defined in K.A.R. 70-7-1(h)(2)(D); and \$500.00 for violation of K.S.A. 47-830(o)(4), as defined in K.A.R. 70-8-1(b). Respondent shall pay the total fine of \$1000.00 within thirty (30) days from the time this Consent Agreement and Final Order takes effect, due to the Kansas Board of Veterinary Examiners.

11. Additionally, Respondent shall submit to the Board a one-thousand (1000) word essay regarding an anesthesia protocol for companion animals. This essay shall include, but not limited to, three (3) professional references cited within this essay.

12. Further, Respondent shall successfully complete the on-line continuing education course titled, "Veterinary Record Keeping" available at:
Veterinaryrecordkeeping.com

13. Further, Respondent shall successfully complete the on-line continuing education course titled, "Ethics & Professionalism-Communication" available at
VetCEonline.com

14. All foreseen and unforeseen expenses to complete the aforementioned course including travel, lodging, program fee, meals, etc., shall be at Respondent's own expense.

15. These hours shall be in addition to those continuing education hours required for renewal of license.

16. Respondent shall all submit to the Board at its offices located at P.O. Box 379, Wamego, Kansas, 66547, the fine remittance, and any documents evidencing completion of the requirements required by this Consent Agreement and Final Order.

17. After completion of the actions set out in the Consent Agreement and Final Order, Respondent will have no remaining obligations to the Board in relation to this case. However, Respondent may be subject to further enforcement action if Respondent fails to comply with the terms, conditions, and requirements imposed by this Consent Agreement and Final Order.

18. The matters referred to in this Consent Agreement and Final Order shall not be grounds for future action against Respondent, except the extent that that such matters may be relevant for future disciplinary or licensure proceedings in the Board's consideration of the factors identified in K.S.A. 47-829 [Licenses; expiration; renewal; continuing education requirements], and K.S.A. 47-830 [Grounds for refusal to issue or revocation or suspension of license or other restriction],

for establishing rehabilitation or a pattern of conduct.

19. Except as provided in paragraph 18, this Consent Agreement and Final Order shall operate as a complete release of all claims the parties may have against each other pending before the Board and arising out of the Board's investigation of these matters. Respondent agrees not to file, or cause to be filed, any litigation or claims in any federal or state court of law or federal or state administrative agency against the Board, its agents, Board members, or employees, individually or in their official capacity. Such litigation or claims include, but are not limited to, any K.S.A. Chapter 60 or Chapter 61 civil action regarding negligence and/or a 42 United States Code action and/or any administrative petition for redress. Respondent agrees that all actions in this matter were a bona fide use of administrative discretion on the part of the Board, its members, and employees, which is a statutory exception to liability within the Kansas Tort Claims Act, K.S.A. 75-6104(b), (c) or (e).

20. Respondent agrees that this Consent Agreement and Final Order conforms to Kansas and federal law and that the Board has jurisdiction to enter into it and enter the Final Order provided for herein.

21. Respondent understands that a notification of this Consent Agreement and Final Order shall be provided to any other state licensing board or entity if Respondent is also licensed, registered or certified in another state.

22. This Consent Agreement and Final Order shall be a public record in the custody of the Board. Additionally, this Consent Agreement and Final Order may be made know to the public by publication in the Board's newsletter and/or by a press release issued by the Board.

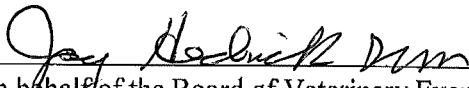
23. This Consent Agreement and Final Order constitutes the entire agreement of the parties and may only be modified by order of the Board or by a subsequent writing signed by the parties. The agreement shall be interpreted in accordance with the laws of the State of Kansas.

24. This Consent Agreement and Final Order shall become effective on the date indicated in the Certificate of Service.


WHEREFORE, the parties consent to these provisions, which are hereby made the Final Order of the Kansas State Board of Technical Professions in the above-captioned case.

IT IS SO ORDERED.

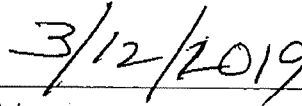
Signed:


On behalf of the Board of Veterinary Examiners

APPROVED AND CONSENTED TO BY:



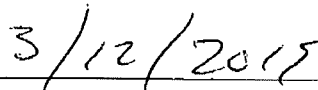
Matthew A. Vandervele, D.V.M., Respondent



Date



Sean Edwards
Attorney for Respondent



Date

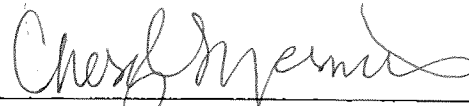
CERTIFICATE OF SERVICE

This is to certify that on this 21st day of March, 2019, a true and correct copy of the above and foregoing Consent Agreement and Final Order was deposited in the U.S. Mail, first class postage prepaid, addressed to:

Sean Edwards
Sanders Warren Russell & Scheer LLP
9401 Indian Creek Parkway, Suite 1250
Overland Park, Kansas 66210
Attorney for Respondent

and by email to: jane.weiler@ag.ks.gov

Jane E. Weiler, No. 25276
Assistant Attorney General
Attorney for the Board



For the Kansas Board of Veterinary Examiners