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8 **BEFORE THE**
9 **VETERINARY MEDICAL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:
12 **KRIS M. DAILEY, DVM**
2939 Spafford Street, Suite 135
13 Davis, California 95616
Veterinary License No. VET 12666
14 Respondent.

Case No. AV 2011 23

A C C U S A T I O N

15 Complainant alleges:

16 **PARTIES**

17 1. Susan M. Geranen ("Complainant") brings this Accusation solely in her official
18 capacity as the Executive Officer of the Veterinary Medical Board ("Board"), Department of
19 Consumer Affairs.

20 2. On or about June 21, 1996, the Board issued Veterinary License Number VET 12666
21 to Kris M. Dailey, DVM ("Respondent"). Respondent's veterinary license was in full force and
22 effect at all times relevant to the charges brought herein and will expire on February 29, 2012,
23 unless renewed.
24

25 **STATUTORY AND REGULATORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 4875 provides, in pertinent part, that
27 the Board may revoke or suspend the license of any person to practice veterinary medicine, or any
28 branch thereof, in this state for any causes provided in the Veterinary Medicine Practice Act (Bus.

1 & Prof. Code § 4800, et seq.). In addition, the Board has the authority to assess a fine not in
2 excess of \$5,000 against a licensee for any of the causes specified in section 4883 of that code.
3 Such fine may be assessed in lieu of, or in addition to, a suspension or revocation.

4 4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a
5 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
6 period within which the license may be renewed, restored, reissued or reinstated. Under Code
7 section 4843.5, the Board may renew an expired license at any time within five years after the
8 expiration.

9 5. Code section 4883 states, in pertinent part:

10 The board may deny, revoke, or suspend a license or assess a fine as
11 provided in Section 4875 for any of the following:

12

13 (i) Fraud, deception, negligence, or incompetence in the practice of
14 veterinary medicine.

14

15 (o) Violation, or the assisting or abetting violation, of any regulations
16 adopted by the board pursuant to this chapter . . .

17 6. California Code of Regulations, title 16, section ("Regulation") 2032 states that "[t]he
18 delivery of veterinary care shall be provided in a competent and humane manner. All aspects of
19 veterinary medicine shall be performed in a manner consistent with current veterinary medical
20 practice in this state."

21 7. Regulation 2032.3 states, in pertinent part:

22 (a) Every veterinarian performing any act requiring a license pursuant to
23 the provisions of Chapter 11, Division 2, of the code, upon any animal or group of
24 animals shall prepare a legible, written or computer generated record concerning the
25 animal or animals which shall contain the following information:

25

26 (7) Data, including that obtained by instrumentation, from the physical
27 examination.

27

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1 (9) Records for surgical procedures shall include a description of the
2 procedure, the name of the surgeon, the type of sedative/anesthetic agents used, their
route of administration, and their strength if available in more than one strength . . .

3 8. Regulation 2032.4 states, in pertinent part:
4

5 (b) A veterinarian shall use appropriate and humane methods of
6 anesthesia, analgesia and sedation to minimize pain and distress during any
7 procedures and shall comply with the following standards:
8

9 (3) Provide a method of respiratory monitoring that may include
10 observation of the animal's chest movements, observing the rebreathing bag, or
respirometer . . .

11 COST RECOVERY

12 9. Code section 125.3 provides, in pertinent part, that a Board may request the
13 administrative law judge to direct a licentiate found to have committed a violation or violations of
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case.

15 BACKGROUND

16 10. On March 16, 2009, Cecilia Tolley ("Tolley") took her 11 year old female toy poodle,
17 "Angel", to the Animal Wellness Center ("AWC") in Davis, California. Angel was lethargic,
18 vomiting, and had discharge from the vulva. Respondent examined Angel, performed blood tests,
19 and took abdominal x-rays. The blood work revealed an elevated white blood cell count and
20 higher than normal kidney values, and the radiographs revealed a dilated uterus. Respondent
21 diagnosed pyometra (uterine infection) and kidney disease, and recommended surgery (for the
22 pyometra) and medical treatment. Respondent performed the surgery that same day and treated
23 Angel post-operatively with intravenous fluids, antibiotics, and pain relievers, including the non-
24 steroidal anti-inflammatory drug, Metacam®. Since AWC was not a 24-hour facility, Tolley
25 elected to take Angel home.

26 11. On March 17, 2009, Respondent readmitted Angel to AWC and treated her with
27 intravenous fluids, antibiotics, anti-emetics, and analgesics, including Metacam®.

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1 2032.3 (record keeping). The Board issued a fine of \$500 against Respondent for the violations.
2 Respondent paid the fine on December 20, 2007.

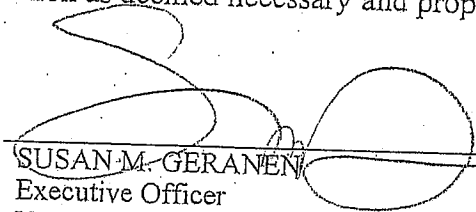
3 b. On or about February 29, 2008, the Board issued Citation No. 1987-C, SV 2007 544
4 against Respondent for a violation of Code section 4883, subdivision (i) (negligence).
5 Respondent allegedly failed to properly perform a declaw procedure on a complainant's cat
6 "Puffy", resulting in the regrowth of all of the affected nails. The Board issued a fine of \$500
7 against Respondent for the violation. Respondent paid the fine on April 3, 2008.

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Veterinary Medical Board issue a decision:

- 11 1. Revoking or suspending Veterinary License Number VET 12666, issued to Kris M.
12 Dailey, DVM;
- 13 2. Assessing a fine against Kris M. Dailey, DVM not in excess of \$5,000 for any of the
14 causes specified in Business and Professions Code section 4883;
- 15 3. Ordering Kris M. Dailey, DVM to pay the Veterinary Medical Board the reasonable
16 costs of the investigation and enforcement of this case, pursuant to Business and Professions
17 Code section 125.3;
- 18 4. Taking such other and further action as deemed necessary and proper.

19
20 DATED: 7/27/11


21 SUSAN M. GERANEN
22 Executive Officer
23 Veterinary Medical Board
24 Department of Consumer Affairs
25 State of California
26 Complainant

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28 SA2011100256