

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

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CLERK OF SUPERIOR COURT

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
12 VMB 02622

N.C. Veterinary Medical Board, )  
Petitioner, )  
vs. )  
Guy R. Beretich, DVM, )  
Respondent. )

CONSENT ORDER

THIS MATTER coming on before the undersigned Judge presiding, N.C. Office of Administrative Hearings, with the consent of Petitioner, the N.C. Veterinary Medical Board and with the consent of Respondent, Guy R. Beretich, DVM; and it appearing that the Board is represented by counsel P. Lee Craven, III and George G. Hearn, and that Respondent is represented by counsel K. Edward Greene and Samuel A. Slater; and after reviewing the file and conferring with counsel, the undersigned enters this Consent Order with the express consent of the parties, upon the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Guy R. Beretich, DVM ("Dr. Beretich") is a veterinarian licensed by the N.C. Veterinary Medical Board, holding license No. 748. He owns and operates Vets for Pets Animal Hospital (the "Hospital") in Dunn, N.C.
2. The N.C. Veterinary Medical Board ("Board") is an occupational licensing board which regulates the practice of veterinary medicine in North Carolina pursuant to N.C.G.S. Article 11, Chapter 90 and Board administrative rules, 21 NCAC 66.0100 *et seq.*
3. This case was initiated by a Notice of Hearing from the Board dated February 2, 2012 served upon Dr. Beretich. On April 13, 2012, pursuant to N.C.G.S. § 150B-40(e), the hearing panel of the Board voted to apply to the Director of OAH for the designation of an administrative law judge to hear the case. OAH accepted the case and scheduled the matter for hearing.
4. The Office of Administrative Hearings ("OAH") has jurisdiction of the parties and the subject matter of this Consent Order.
5. This Consent Order resolves all complaints pending before the Board concerning Dr. Beretich, including complaints 2009043-5; 2009042-5; and 2009041-5 contained in the Notice of Hearing.

6. With respect to Board complaint 200943-5, the Board alleges in its Notice of Hearing and contends that at a formal hearing its evidence would show the following:

a. In August, 2009, Dr. Beretich failed to provide competent medical care for Davidson, a Miniature Pinscher owned by Melanie Johnson of Benson.

b. On 8/14/09, Dr. Beretich allowed a non-veterinarian employee to diagnose Davidson and prescribe a treatment plan. Dr. Beretich observed but did not examine Davidson on 8/14. He failed to diagnose the dog's condition, and failed to offer diagnostic tests necessary to diagnose the dog's condition.

c. At home, Ms. Johnson administered Denamarin, which Dr. Beretich's employee had dispensed. Davidson did not improve but began vomiting. At Dr. Beretich's request, Ms. Johnson returned Davidson to the Hospital for intravenous ("IV") fluids.

d. Davidson was hospitalized between 8/14 and 8/18/09. He was placed in a kennel and administered IV fluids. When Ms. Johnson visited the dog on 8/15, 16 and 17, Dr. Beretich did not speak with her about Davidson's condition or a diagnosis. Davidson did not improve. Ms. Johnson was not informed of the treatment Davidson received or a description of his status.

e. Dr. Beretich next spoke to Ms. Johnson on 8/18. He informed her that radiographs or an ultrasound would be necessary to diagnose the dog's condition, but that the Hospital could not conduct these diagnostic tests. He said he did not think any other veterinary facility could help Davidson.

f. Ms. Johnson removed Davidson from the Hospital on 8/18 and presented him to Dr. Marilyn Brewer at Dunn Animal Hospital. Dr. Brewer examined the dog, performed blood work and took radiographs, and diagnosed him with kidney failure. Given Davidson's poor condition, Dr. Brewer recommended euthanization. Ms. Johnson consented and Davidson was euthanized that day.

g. Between 8/14 and 8/18/09 Dr. Beretich failed to maintain a medical record for Davidson with all pertinent medical data as required by Board rules. The record had virtually no physical examination findings; no differential diagnoses or a diagnosis; little meaningful information about fluids administered; and no information of Dr. Beretich's discussions with Ms. Johnson.

h. By reason of the foregoing, Dr. Beretich violated the statutes and rules relating to the practice of veterinary medicine in by allowing a non-veterinarian Hospital employee to diagnose and prescribe a treatment plan for Davidson; by failing to make a prompt and accurate diagnosis of the dog; by failing to appropriately treat the dog; and by failing to maintain a medical record with all pertinent medical data. These deficiencies in the practice of veterinary medicine constitute incompetence and gross negligence.

7. With respect to Board complaint 2009042-5, the Board alleges in its Notice of Hearing and contends that at a formal hearing its evidence would show the following:

a. Between 1/17/09 and 8/1/09, Dr. Beretich failed to competently treat Sadie, a Boxer/Bulldog-mix owned by Sara Hobson of Dunn.

b. Ms. Hobson presented Sadie to the Hospital on 1/17/09 because of discharge in her left eye. Dr. Beretich did not examine the dog but allowed a non-veterinarian Hospital employee to examine Sadie. The employee diagnosed the dog with entropion affecting the left, upper eyelid; dispensed eye ointment; and advised Ms. Hobson that Sadie would require surgery.

c. On 1/21/09 Dr. Beretich performed surgery on Sadie based upon the diagnosis by Dr. Beretich's employee. Ms. Hobson believed the surgery was to be performed on the upper, left eyelid. She later learned that Dr. Beretich operated on the left, lower eyelid. He met with Ms. Hobson at Sadie's discharge on 1/22 and explained that he had cut off part of the dog's eyelid in order to remove eyelashes that were irritating the eye. He advised her to put ointment and drops in the eye.

d. Sadie's left eye problem did not resolve. It remained swollen; the eyeball looked cloudy; the eye was draining; and the dog pawed at the eye. On 1/31 Ms. Hobson returned Sadie to the Hospital. A relief veterinarian examined Sadie's eye and explained that the 1/21 surgery was performed on the left, bottom eyelid, and that Sadie would require surgery on the left, upper eyelid because eyelashes rubbing the eye had caused an ulcer.

e. Dr. Beretich then examined Sadie and advised Ms. Hobson he could perform the surgery. When Ms. Hobson said that the dog's left, upper eyelid was the one that had previously required surgery, Dr. Beretich responded that it was the lower, left eyelid that had needed the previous surgery.

f. Dr. Beretich performed the second surgery on 1/31 but did not discuss the surgery with Ms. Hobson at discharge. The Hospital's medical records for Sadie do not include any reference to this surgery.

g. On 2/7 Dr. Beretich examined Sadie's eye, but on 2/13 when Sadie was checked again, a Hospital employee examined her.

h. On 3/18 Ms. Hobson explained to Dr. Beretich that Sadie's left eye was still draining, was again cloudy, and appeared to be getting worse. He offered to perform surgery to repair the dog's eye.

i. On 3/30 Dr. Beretich performed a third surgery on Sadie. Hospital medical records for this day include the phrase "re-check eye -- remove upper left eyelid." At discharge on 3/31 Dr. Beretich did not discuss the procedure with Ms. Hobson.

j. While Sadie's left eye healed following the 3/30 surgery, later it began to drain, and Ms. Hobson observed eyelashes around the eye.

k. On 7/12 Dr. Beretich examined Sadie and performed a fourth eye surgery on 7/15. He did not meet with Ms. Hobson that day or when Sadie was discharged on 7/16.

l. At recheck on 8/1, Sadie's left eye was still draining and eyelashes were still present on the upper eyelid. Dr. Beretich met with Ms. Hobson but refused to perform another surgery.

m. On 8/17 Ms. Hobson presented Sadie to Dr. Marilyn Brewer at Dunn Animal Hospital. Dr. Brewer examined the dog's left eye and referred Sadie to Dr. Robert English in Cary.

n. On 9/15 Dr. English, who is board-certified in veterinary ophthalmology, examined Sadie and found that the left, upper eyelid margin had been surgically removed. He concluded that the removal of the left, upper eyelid margin was of no medical benefit to Sadie and was therefore improper. He determined that Sadie was suffering either from entropion or distichiasis. Neither condition is properly treated by the removal of the upper eyelid margin.

o. Between 1/17/09 and 8/1/09, Dr. Beretich failed to maintain a medical record for Sadie with all pertinent medical data as required by Board rules. The record had no descriptions of the surgeries; no identification of which eye (left or right) was affected, operated on and rechecked; and no diagnosis or description of the eye's condition at rechecks.

p. By reason of the foregoing, Dr. Beretich violated the statute and rules relating to the practice of veterinary medicine by allowing a non-veterinarian Hospital employee to diagnose and prescribe a surgical treatment plan for Sadie; by failing to appropriately treat Sadie; and by failing to maintain a medical record with all pertinent medical data. These deficiencies in the practice of veterinary medicine constitute incompetence and gross negligence.

8. With respect to Board complaint 2009041-5, the Board alleges in its Notice of Hearing and contends that at a formal hearing its evidence would show the following:

a. On 8/11/09 a Hospital employee administered a rabies vaccine and a DHPP vaccine to a Labrador-mix dog adopted from the Hospital by Tammy Brundage of Cary. The employee administering the rabies vaccine was neither a licensed veterinarian, nor a registered veterinary technician, nor a certified rabies vaccinator. Dr. Beretich allowed this Hospital employee to administer the rabies vaccine in violation of North Carolina law.

b. Between 2007 and 2009, Danella Anderson of Angier, a former registered veterinary technician, observed one or more Hospital employees, when Dr. Beretich was not present at the facility, diagnose and treat patients and dispense and explain medications to clients. Ms. Anderson also observed several non-veterinarian Hospital employees administer rabies vaccines and observed a Hospital employee euthanize animals at the Hospital two or three times between 2008 and 2009. Dr. Beretich allowed these acts in violation of North Carolina law. His allowing these acts constitutes incompetency and gross negligence in the practice of veterinary medicine.

9. The Board alleges in its Notice of Hearing and contends that at a formal hearing its evidence would show the following:

a. At the Hospital on 4/17/10 at approximately 9:00 a.m., while Dr. Beretich was not present at the facility, a Board investigator observed a non-veterinarian Hospital employee examining and treating a cat and explaining to its owner a diagnosis and recommended treatment. Dr. Beretich's allowing these acts by his employee in violation of North Carolina law constitutes incompetence and gross negligence in the practice of veterinary medicine.

10. Dr. Beretich denies the allegations in the Board's Notice of Hearing. However, in order to resolve the disputed allegations, and without any admission of fault, Dr. Beretich agrees to the entry of this Consent Order.

#### CONCLUSIONS OF LAW

1. The Office of Administrative Hearings ("OAH") has jurisdiction of the parties and the subject matter of this Consent Order.

2. This case was initiated by a Notice of Hearing from the Board dated February 2, 2012 served upon Dr. Beretich. On April 13, 2012, pursuant to N.C.G.S. § 150B-40(e), the hearing panel of the Board voted to apply to the Director of OAH for designation of an administrative law judge to hear the case. OAH accepted the case and scheduled the matter for hearing.

3. This Consent Order resolves all complaints pending before the Board concerning Dr. Beretich, including complaints 2009043-5; 2009042-5; and 2009041-5.

4. The Board enters into this Consent Order under the authority granted it by Article 11, Chapter 90 of the N.C. General Statutes.

5. The Board contends that the allegations contained in the Notice of Hearing and its anticipated evidence to be offered at a hearing would establish violations of the N.C. Veterinary Practice Act and Board administrative rules, including N.C.G.S. § 90-187.8(c)(6); § 90-187.8(c)(7); § 90-187.10; § 90-187.12; § 130A-185(b); and Board rules 21 NCAC 66.0205(5) and 0207(b)(12).

6. Dr. Beretich denies the Board's allegations contained in the Notice of Hearing. However, in order to resolve the disputed allegations, Dr. Beretich agrees to the entry of this Consent Order.

7. The disputed issues of fact and law are not resolved, but with the consent of all parties, this Order is entered.

#### CONSENT OF GUY R. BERETICH, DVM

Dr. Beretich, an adult under no disability, by signing the Consent Order, stipulates and agrees that: he has read the Consent Order; he has had the opportunity to consult with his attorneys, K. Edward Greene and Samuel A. Slater, about its contents prior to his signing; he does not contest the Consent Order; he waives his right to contest the Findings of Fact, Conclusions of Law, and the Consent Order in any subsequent proceedings before the Board,

before a hearing panel of the Board, before the Office of Administrative Hearings, or in any other court of competent jurisdiction; he consents to the jurisdiction of the Board and OAH and the entry of this Consent Order; he understands the effect of this Consent Order upon his license and ability to practice veterinary medicine in North Carolina; he expressly waives his right to judicial review of this Consent Order under the provisions of N.C.G.S. Chap. 150B and to any other appeal under other applicable law, including the Veterinary Practice Act and the Board administrative rules; and he agrees to comply with this Consent Order in its entirety.

### ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, and with the consent of the Board and Dr. Beretich, it is hereby ordered:

1. Until December 31, 2012, Dr. Beretich may practice veterinary medicine, subject to the terms of this Consent Order.

2. Effective 6:00 p.m. December 31, 2012, Dr. Beretich's license will be reduced to a limited license pursuant to N.C.G.S. § 90-181(4) and Board Rule 21 NCAC 66.0311. Under this limited license Dr. Beretich shall not practice veterinary medicine as defined in N.C.G.S. § 90-181(6) but he may continue to own Vets for Pets Animal Hospital for the sole purpose of selling it, as described in paragraph 7, below.

3. Dr. Beretich's limited license will expire on the earlier of the closing of the sale of his veterinary practice or 12:01 a.m. June 1, 2013.

4. During the pendency of his limited license, Dr. Beretich may employ staff at Vets for Pets, but he may not supervise professional or lay staff in the delivery of veterinary medical services.

5. During the pendency of his limited license, Dr. Beretich may not practice veterinary medicine, which definition in N.C.G.S. § 90-181(6) means:

a. To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental conditions; including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique on any animal.

b. To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in sub-subdivision a. of this subdivision.

c. To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in sub-subdivision a. of this subdivision.

6. Upon the expiration of Dr. Beretich's limited license, he will not thereafter apply to the Board for a veterinary license or for a temporary permit or for registration as a veterinary technician.

7. Dr. Beretich agrees to sell his veterinary practice. Upon entry of this Consent Order, he will immediately undertake good-faith, commercially reasonable efforts to market and sell his veterinary practice, "Vets for Pets Animal Hospital." He is not required to sell any buildings or real property on which the practice facility is located, or any personal property located in or on the real property. Dr. Beretich will inform the Board when he executes a contract to sell the practice and will inform the Board when the sale closes. If Dr. Beretich does not close the sale of his practice by May 31, 2013, his limited license nevertheless expires at 12:01 a.m. June 1, 2013.


8. Dr. Beretich will furnish the Board written documentation demonstrating his efforts to actively market and sell the practice. The first written documentation is due thirty (30) days after the entry of this Consent Order. Subsequent written documentation is due on or before the 15<sup>th</sup> day of each month thereafter until the practice is sold.

9. Dr. Beretich will not violate the terms of this Consent Order, the Veterinary Practice Act, Board rules or other state and federal statutes regarding veterinary medicine. If the Board receives information that Dr. Beretich has violated any term or condition of this Consent Order, the Board may seek an immediate hearing at OAH and may seek preliminary or injunctive relief for such violation. If the Board receives a complaint against Dr. Beretich during the term of this Consent Order based on allegations not associated with this Consent Order, the Board retains jurisdiction of such complaint for investigation and decision pursuant to the Veterinary Practice Act and Board rules.

10. Within 30 days of the entry of this Consent Order, Dr. Beretich will pay to the Board the sum of \$15,000.00 as reimbursement for a portion of the Board's costs incurred in the investigation and prosecution of this matter, pursuant to N.C.G.S. § 90-186(7).

11. OAH retains jurisdiction of this matter until the expiration of Dr. Beretich's limited license, as set forth above, except as to matters or things then pending relating to the Consent Order.

This the 31<sup>st</sup> day of July, 2012.

  
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Donald W. Overby  
Judge Presiding  
Office of Administrative Hearings  
Raleigh, N.C.

CONSENTED TO:

THE NORTH CAROLINA VETERINARY MEDICAL BOARD

By: David J. Marshall, DVM

Chair, Hearing Panel

JOHNSON, HEARN, VINEGAR  
GEE & GLASS, PLLC

*Attorneys for the N.C. Veterinary  
Medical Board*

By: George G. Hearn  
George G. Hearn  
N.C. Bar No. 6196

P. Lee Craven, III  
P. Lee Craven, III  
N.C. Bar No. 28486  
P.O. Box 1776  
Raleigh, N.C. 27602  
Telephone: (919) 743-2200  
Facsimile: (919) 743-2201



CONSENTED TO:

By: Guy R. Beretich, DVM  
Guy R. Beretich, DVM

WYRICK, ROBBINS, YATES  
& PONTON, LLP

*Attorneys for Guy R. Beretich, DVM*

By: K. Edward Greene  
K. Edward Greene  
N.C. Bar No. 1749

Samuel A. Slater  
Samuel A. Slater  
N.C. Bar No. 43212  
P.O. Drawer 17803  
Raleigh, N.C. 27610  
Telephone: (919) 781-4000  
Facsimile: (919) 781-4865