

SVME NEWSLETTER

Newsletter of the Society for Veterinary Medical Ethics

Volume 7, Number 3

September 2001

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PRESIDENT'S MESSAGE

In the wake of the national tragedy this week from terrorist attacks upon Americans, I wish to offer condolences from the SVME to all Americans, especially those who have been personally affected by this tragedy. To all those families who have suffered a loss, our heartfelt prayers go out to you.

I pray in the coming weeks we will be thoughtful and measured in our response. We live in a remarkable country blessed with many freedoms for which we should be thankful.

This year I will concentrate my efforts in initiating student chapters of the SVME in the veterinary schools in North America. I am in contact with representatives of the AVMA and will be contacting all of the representatives of the Student Chapters of the AVMA soon. My goal this year is to have 15 active student chapters by June 2002. The ramifications of this goal are significant to the growth of the SVME and will encourage another generation of participants in our Society. Student chapters will adopt the goals of the SVME, and should adopt similar Constitution and Bylaws, which the SVME accepts. Additionally, these student chapters will need to hold at least 4 annual meetings. I need a list of 15 SVME members who would be willing to speak at these meetings. I don't think anyone should need to perform this professional duty more than once a year, hopefully. So I'm asking for volunteers. You may email me directly at: catdoc323@aol.com.

Brian Forsgren is preparing the agenda for our meeting next summer. I'm very excited about these plans for the coming year, and I will try not to disappoint the members. The SVME has a rich diversity in its membership, and I believe having students as members will add significantly to that diversity.

Every member is welcome to contact me at any time. Here is my contact information:

Bill Folger DVM, MS, ABVP (Feline)
12424 Memorial Drive
Houston, TX 77024
Phone: 713-461-2287
Fax: 713-464-4199

Finally, it will be my goal to encourage several previous members of the SVME to rejoin us.

Let's remember to spend time with our loved ones this year!

Bill

Bill Folger, DVM, Ms, ABVP (Feline)
President, SVME

PRESIDENT-ELECT'S MESSAGE

The importance of “ethics” as a framework upon which we base our actions is probably the key ingredient that allows the human species to develop a “civilized” society. The events of September 11 put this concept to a remarkable test. Our world has been shaken and it will never be the same.

The imperative of “ethics” in the context of our professional behavior has always been an important issue to me. I was raised as a child of Tom Brokaw’s Best Generation parents. They were dedicated to providing a “better” life for me. They sacrificed and sent me to Catholic schools. I grew up a very privileged child in a loving environment.

I went through undergrad in the late 60s and early 70s in Washington, D.C. The Vietnam conflict, the Peace Movement, the Civil Rights and Women’s Rights struggles were the sort of ethical quandaries that profoundly influenced my thought. Philosophy, ethics and the humanities were a core component of my Liberal Arts education.

The outcome of this sort of training has led me to consider my obligations to the individual and society. Essentially, I have been hard-wired to continually review one’s behavior in a context consistent with one’s professed beliefs.

We as veterinarians are remarkably blessed with a positive public image. The publishing of All Creatures Great and Small coincided with my entrance to veterinary school. The public intuitively trusts us and has faith in us to do the right thing. This is a gift that needs to be recognized and cherished. With such a gift come corresponding obligations.

As the world changes rapidly around us, one must realize that there are still some ABSOLUTES. Predicting problems and anticipating need for our profession as we attempt to maintain its lofty vision as the Caring Profession is a challenge shared by academics, our professional organizations and each of us as individuals. SVME provides all of us an opportunity to impact the continued maintenance of our profession’s integrity.

I was particularly encouraged by Bill Folger’s decision to move toward establishing student chapters of SVME. The general shift towards specialization and a more intense concentration in scientific modalities leaves the younger generations needing and wanting an approach based in ethics and philosophy. I hope that through the next two years we can work together to promote other “ethics” based mind-provoking opportunities for the profession. The times we live in certainly need an infusion of open mindedness and a sense of community responsibility.

As President-Elect, it is my responsibility to develop the program for the AVMA Convention’s SVME CE courses. I encourage the membership to contact me with ideas for topics and speakers for this gathering in Nashville. The program should serve as an intellectual oasis for our members in a welcoming atmosphere for new ideas and the reaffirmation of traditions upon which the profession has flourished. Remember, SVME is your society. Your involvement makes it go. Please contribute.

Brian

Brian Forsgren, D.V.M.
SVME President-Elect

TREASURER'S REPORT

As of 8/7/01, the SVME checking account balance was \$636.09, and the savings account balance was \$24,832.94. Thanks to the members who have already submitted their dues payment. If you have not done so already, please submit it at your earliest convenience.

Mary

Mary D. Kraeszig, DVM
SVME treasurer

SVME WEB SITE AND NEWSLETTER CONTRIBUTIONS

The web site of the SVME <http://www.vetmed.wsu.edu/org_svme> still needs to be completed. Sections on resources and links to other web sites on veterinary ethics and related topics are still under construction. I would like to make the web site of the SVME a primary resource of information on Veterinary Ethics and all related questions. Anyone having suggestions to improve the site is welcomed to send them to <scloutie@vetmed.wsu.edu>.

Once again, I urge all SVME members to consider contributing to the Newsletter whether it is a book review, an opinion piece or simply information about professional activities. The next Newsletter will be out in January 2002. If you consider contributing to the Newsletter, please send your text before December 20, 2001. All members who are considering contributing to the Newsletter can contact me at <scloutie@vetmed.wsu.edu> or c/o department of VCAPP, College of Veterinary Medicine, Washington State University, PO Box 646520, Pullman, WA, 99164-6520.

SVME MEMBERSHIP RENEWAL PROVIDES BENEFITS

The renewal of your membership to SVME for the year 2001-2002 was due at the beginning of July. It is not too late to renew your membership dues. You can use the dues renewal form available in the present newsletter (see page 4) or on the SVME web site. However, members who have not renewed their membership by the end of October 2001, will be removed from the VETETHIC listserv and/or the Newsletter mailing list. The listserv and newsletter are privileged for SVME members. Do not hesitate to contact me if you have any questions or comments.

Sylvie Cloutier, PhD
Secretary/Editor, SVME

OFFICERS OF THE SOCIETY

<i>President:</i>	William R. Folger, DVM, MS, ABVP (Feline)
<i>President Elect:</i>	Brian Forsgren, DVM
<i>Treasurer:</i>	Mary D. Kraeszig, JD, DVM
<i>Secretary:</i>	Sylvie Cloutier, PhD
<i>Parliamentarian:</i>	Robert C. Speth, PhD
<i>Historian:</i>	To-Be-Named
<i>Immediate Past-President:</i>	Don D. Draper, DVM, PhD, MBA
<i>Past-Presidents:</i>	Ronald L. McLaughlin, DVM Robert Shomer, VMD Albert Dorn, DVM, MS Jerry Tannenbaum, MA, JD John R. Boyce, DVM, PhD Robert C. Speth, PhD

SVME DUES NOTICE

William Folger, DVM, MS, ABVP (Feline), President
Brian Forsgren, DVM, President-Elect
Donald D. Draper, DVM, PhD, MBA, Past-President
Sylvie Cloutier, Ph.D., Secretary
Mary D. Kraeszig, JD, DVM, Treasurer
Robert C. Speth, DVM, Parliamentarian
(To-Be-Named), Historian

September 2001

DUES NOTICE

Dues for 2000-2001 were payable by the end of July (see editor's note, previous page). We appreciate your past support and look forward to a new and even better year for the Society. The dues payment of \$20.00 (\$5.00 for students) is payable to: ***Society for Veterinary Medical Ethics or SVME***. Membership will be in force from July 1, 2001 to June 30, 2002.

Send checks to: SVME c/o Mary D. Kraeszig,
541 Quail Valley Drive,
Zionsville, IN 46077

Payment Date: _____ Check Number: _____

Please return this section of the form with your dues payment (see amounts above) to help us keep our records up to date.

NAME and ADDRESS CORRECTION IF NECESSARY:

NAME: _____

ADDRESS _____

TELEPHONE NUMBER: (_____) _____

FAX NUMBER: (_____) _____

ELECTRONIC MAIL ADDRESS: _____

Check this box if you are not on VETETHIC and would like to be.

(Email address is required)

Note from the editor:

Dr. Peter Singer, the author of the book critiqued by Dr. Speth, has declined the opportunity to respond to the critique.

Please note that Dr. Speth is presenting a critique of the first edition of Peter Singer's book. A second edition of the book has been published and is still available. However, it differs substantially from the first edition. Therefore, if you want to read the book, make sure you have the right edition.

I encourage any member who would like to review any other books that could be of interest to the members for future issues to let me know.

Sylvie Cloutier, PhD
Secretary/Editor, SVME

BOOK REVIEW, A CRITICAL APPRAISAL (PART 2):

Book Title:
Practical Ethics

In the previous issue of this Newsletter, I presented a critical review of the first 4 chapters of the first edition of *Practical Ethics*, published in 1979. Below is a continuation of this critique. However, I have focused my criticism mainly on issues relevant to human-animal interrelationships, rather than the entire spectrum of issues presented in this book.

Chapter 5 "Taking life: animals" continues the previous chapter's emphasis on killing, with a primary focus on the killing of animals. The chapter elevates the killing of animals to a level equivalent to that of killing humans by presenting an argument of extremes. In essence it says: the most intelligent nonhuman primate is more intelligent and self-aware than severely retarded individuals and human infants. Therefore, if we give the rights of personhood to these humans then nonhuman primates are also persons.

To support this, Singer uses a description of chimpanzee behavior by Jane Goodall to imply that nonhuman primates possess astounding intellectual abilities. However, the supposedly remarkable actions of the chimpanzee are not that far removed from a rat that waits for a cue before pressing a bar for a reward, or a cat positioned near a mouse hole waiting for a mouse to appear. Goodall's recent suggestion that chimpanzees engage in religious rituals and may have souls

Author: Peter Singer
Cambridge University Press
Cambridge, England, 1979
237 pages
ISBN 0-521-29720-6
(Out of print, but can be obtained
through bookfinder.com or
bibliofind.com)

(*Science and Spirit*, May/June 2001, 22-24) might cause even Singer to reconsider the validity of Goodall's conclusions about nonhuman primate behavior.

Nonetheless, now that we have defined some nonhuman animals as persons, as well as some humans as non-persons, we should recognize that it is worse to kill a chimpanzee than it is to kill a human who does not meet Singer's criteria for being a person. And, "Hence we should reject the doctrine that places the lives of members of our species above the lives of members of other species." (page 97).

Singer extends this discussion to dogs and cats, and even to pigs, speculating that they, too, might qualify for personhood.

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CRITICAL REVIEW (CONTINUED)

In addition to his ‘*we have seen*’ ploy, Singer carefully couches his arguments against killing by not providing a justification for the killing of animals. From other chapters of the book, especially Chapter 3, he condemns virtually all animal use as abusive. He again compares human slavery with the treatment of animals. Baron Lytton once said “The pen is mightier than the sword.” If this adage is correct, I wonder whether Singer, by pitching his arguments in such a clever and prejudicial manner, is no less guilty of coercing his followers into a distorted belief than those who coerced people to work against their will. While this analogy may seem extreme to many, vast numbers of crimes and attacks against animal enterprises are committed by self-described moral criminals who justify their actions by quoting Peter Singer (see also Chapter 9).

In a pattern to be repeated elsewhere in the book, Singer concludes the chapter suggesting that there are exceptions to his rules that will override the principles. In reality, it is Singer’s utopian view of humans and animals that is the exceptional circumstance. Singer’s attempt to bring a substantial proportion of the animal population into a lifeboat that can not even sustain human populations is doomed to failure. Indeed, as is apparent later in the book, Singer becomes so wrapped up in the problems of humans in third-world countries, that he, too, demands the sacrifice of the animals for which he so fervently pleads in Chapter 5.

Chapter 6 “Taking life: abortion” focuses on the issue of abortion and Singer’s endorsement of infanticide. It addresses animal issues only to amplify his condemnations of humanity. For example, he denounces anti-abortionists who operate under the ‘Right to Life’ banner as being hypocrites for not being ethical vegetarians. In a 69 word sentence on page 118 he says: “... if we make

the comparison with a fetus of less than three months, a fish, or even a prawn would show more signs of consciousness.”

By denigrating a 3-month human fetus to a level even less than plants, he now proclaims: “If this is so, an abortion up to this point terminates an existence that is of no intrinsic value at all.” (page 118). Then he uses this as a springboard for another attack on humanity saying, “Indeed, even an abortion late in pregnancy for the most trivial of reasons is hard to condemn in a society that slaughters far more developed forms of life for the taste of their flesh.” (page 118).

Singer steers his philosophy into even more treacherous waters in Chapter 7 “Taking life: euthanasia”, and *we* are once again unwitting members of his crew, shanghaied onto his voyage. The primary focus of this chapter is human euthanasia and includes some astounding recommendations, such as killing

infants that have hemophilia so they can be replaced by healthy infants! (pages 133-135).

Singer peddles “active” euthanasia, (e.g., when an individual administers a lethal drug to kill a comatose patient), versus “passive” euthanasia, (e.g., treatment is withheld and the patient is allowed to die). He condemns passive euthanasia as a result of “...our misplaced respect for the doctrine of the sanctity of human life that prevents us from seeing that what it is obviously wrong to do to a horse it is equally wrong to do to a defective infant.”

Chapter 8 “Rich and Poor” focuses on the plight of the poor, primarily those in third-world countries. Readers now discover that they are culpable for the deaths of 15 million children per year. Singer uses this poverty as a platform to attack animal agriculture. He suggests that in rich countries we waste 95% of the food value of grains by feeding it to animals, food that could be used to feed these 15 million starving infants.

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“Hence we should reject the doctrine that places the lives of members of our species above the lives of members of other species.”
—Singer, page 97

CRITICAL REVIEW (CONTINUED)

The inference is clear. Those who are not ethical vegetarians consuming food at no more than subsistence levels are knowingly causing the deaths of those who are unable to obtain food. Surprisingly, the interests of the animals whose lives are enriched by the availability of adequate food and medical care seem to have been excluded from consideration in this chapter.

Another serious flaw in his philosophy becomes apparent at this point. Singer doesn't accuse people of being murderers for not contributing to the World Wildlife Foundation (an organization that works to protect endangered species and preserve animal habitats), yet he opens the door to accusations of murder by people who fail to contribute to Oxfam (an agency that promotes animal agriculture to help fight poverty in third-world countries). It seems this aspect of his philosophy does not extend beyond the human species, since he is now promoting the same animal agriculture that he savaged in Chapter 3. Another embarrassment for Singer on this issue comes later in the book (page 175) when he says: "...the world now produces enough to feed its inhabitants – the amount lost by being fed to animals itself being enough to meet existing grain shortages." Suddenly, animals no longer qualify as inhabitants of the world!

This inconsistency again becomes apparent in an analogy in which he demands severe punishment for those who kill with cars (page 167), but which is far removed from any concern for bugs on the windshield. This oversight arises from Singer's use of this analogy to set the stage for condemning those who do not aid the poor as being on a par with those who kill people as a result of reckless driving (page 168).

In Chapter 9 "Ends and means," Singer makes another eccentric departure from his

previously established tone. Whereas previous arguments have repressed individual freedoms in favor of benefits to the masses, Singer now quotes Henry David Thoreau's *Civil Disobedience* in which individual autonomy is the preeminent determinant of one's conduct.

Singer then provides biased information regarding animal usage that attempts to subvert the individual autonomy that he urges his readers to express. All experiments are described as being painful and/or unnecessary, farming is factory farming, the 1876 British law regulating animal experiments allows for

uncontrolled experimentation, etc. Worse yet, on page 189 Singer claims that despite a majority opposition to animal testing in Britain, "Special techniques are used to frustrate the democratic process." Here, Singer comes dangerously close to revealing himself as a prejudiced propagandist. It is this reviewer's opinion that at this point Singer decides the end he seeks — the elimination of animal testing — is worth whatever means necessary, even if it requires him to deceive his readers.

Having set the trap, Singer now cautions the reader that illegal actions can only be justified in extreme situations. He introduces his advocacy of criminal behavior with the oft-lauded civil disobedience and its basis as a means to overturn laws for which there are good reversal arguments. But this is not his endpoint. It is merely a way station on his road to anarchy. Now he moves to the well-worn example of "Nazi-style policy of genocide" (page 193) to argue for more serious criminal activities. On page 196 he argues "...those who do not use violence to prevent greater violence have to take responsibility for the violence they could have prevented."

The argument is amplified with a quote by Frederick Engels in which the deaths of workers is classified as murder in the same degree as if someone deliberately and with premeditated malice murdered another person. Not to be out-

All (animal) experiments are described as being painful and/or unnecessary, farming is factory farming, the 1876 British law regulating animal experiments allows for uncontrolled experimentation...

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CRITICAL REVIEW (CONTINUED)

done by Engels, on page 197 Singer says: “Engels’ fundamental point stands. These deaths are a wrong of the same order of magnitude as the deaths of hundreds of people in a terrorist bombing would be.” But then he backs off. He condemns terrorism and with some reservations, acknowledges that the revolution inspired by Marx and Engels gave rise to the corruption of Lenin and Stalin.

But, having slowly drawn us in the direction of his conclusion, and having presented a frightful extreme that exceeds his endpoint (the horrors of Stalinism), he now homes in on his final target: the endorsement of the criminal activities against property typified by the Animal Liberation Front (ALF) and its younger sibling, the Environmental Liberation Front (ELF).

Chapter 10, “Why act morally?” perhaps inspired by the British philosopher F.H. Bradley’s question “Why should I be moral?” and whose influence upon this chapter is prominent, is presented as an inducement to act in an

ethical manner. In his characteristically clever manner, Singer presents the argument in the framework of “our conclusions” derived from the preceding chapters. It is largely a restatement of principles developed in previous chapters, e.g., “... ethics requires a universalizability that requires us to go beyond thinking only about our own interests ...” To act in one’s self interest is to not act morally (page 209).

But in yet another turnaround, Singer acknowledges the utopian characteristics of his philosophy of ethics. Singer ends the book with a recognition that full implementation of his philosophy is doomed to failure. Somewhat analogous to the failure of Communism, he concedes that the principles he proposes are not applicable to normal human behavior. To some this might appear to be a surprising conclusion to a book entitled *Practical Ethics*. However, when the book’s philosophy is analyzed in detail, it reveals itself to be neither practical nor ethical.

Critiqued by
Robert C. Speth, PhD

*Annual Meeting
SVME
conducted
Saturday
July 14, 2001
Boston, MA
Hynes Convention
Center, Room 100*

—2001 Minutes of the Annual Meeting—

of the Society for Veterinary Medical Ethics

Members present: Don Draper, Bill Folger, James Harris, Sylvie Cloutier

Agenda of SVME Annual Business Meeting:

- A. Call to order
- B. Secretary’s report & approval of minutes
- C. Treasurer’s report
- D. Officer reports
- E. Committee reports
- F. Old business
 - 1. Status of student SVME chapters & how to create more
- G. New business
 - 1. Utilization of Dr. Robert Shomer gift to SVME

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Minutes of the Annual Meeting (continued)

2. Does SVME need a strategic plan?
 3. SVME Web site and VETETHIC list
 4. SVME investment policy
 5. Timing of dues payments
 6. Action items from committees
 7. Other new business
- H. Nomination committee report
1. Election of officers
- I. Install officers
- J. Adjournment
-

A. Call to order

The order was unanimously approved.

B. Secretary's report & approval of minutes

The minutes of last year's meeting were published in the September 2000 Newsletter of the Society which was also available on the web site of the society. The minutes were approved unanimously.

C. Treasurer's report

The treasurer's report provided by Mary Kraeszig noted a balance of \$377.11. in the checking account, and \$24 791.63 in the savings account (total of \$25,168.74). Recent expenditure of 170.83\$ for printing and mailing of the newsletter was noted.

On the proposition of James Harris, seconded by Bill Folger the treasurer's report was accepted unanimously.

D. Officer reports

No officers' reports were presented.

E. Committee reports

No committee reports were presented.

F. Old business

1. Status of student SVME chapters & how to create more.

There are actually two active student chapters, one at Missouri and one at the University of Pennsylvania. In 1999 the SVME agreed to provide up to \$60 per semester to subsidize non-alcoholic refreshments for veterinary student groups meeting to discuss veterinary medical ethics. This offer was reiterated last year, in 2000, with no response from the students. Sylvie Cloutier agreed to check if there are SVME members in all 31 College of Veterinary Medicine (US and Canada) who could help promote the development of a SVME student chapter at their institution. Bill Folger will contact the Associate Deans for Academic Affairs of all the Colleges of Veterinary Medicine to inform them that SVME could provide financial aid for the development of a SVME student chapter. He will also contact the SCAVMA chapter at all institutions.

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Minutes of the Annual Meeting (continued)

G. New business

1. Utilization of Dr. Robert Shomer gift to SVME

The committee appointed by Dr. Don Draper to provide suggestions for the use of Dr. Shomer's gift to SVME did not present a report.

It was agreed that the money from Dr. Shomer's gift would be used to promote the formation of SVME student chapters and to develop veterinary ethics activities in the Colleges of Veterinary Medicine in US and Canada. Each College will be offered \$500 for the formation of a student chapter.

On the proposition of Bill Folger, seconded by James Harris the motion was accepted unanimously. After further discussion, an amendment was made to the new motion. All Colleges of Veterinary Medicine (US and Canada) will be offered \$500 to promote the formation of a SVME student chapter. In order to receive this support from SVME, each College will have to present ideas of how they will use the money and ideas to get more funding to keep the chapter active in the following years. The amendment was accepted unanimously.

2. Does SVME need a strategic plan? Are we meeting the objectives as stated in the constitution and by-laws?

It was decided that Bill Folger, the new president, would take care of determining if SVME needs a strategic plan. Sylvie Cloutier suggested that the ethic session and the annual meeting be held separately from the AVMA meeting in order to increase attendance of non-veterinarian and student members. It was suggested that next year's meeting be held on Friday evening before the start of the AVMA meeting.

3. SVME Web site and VETETHIC list

It was decided that all members present at the meeting will make comments and suggestions to improve the SVME web site. The short-term goal is to activate the windows of the site which are still "under construction" and the long-term goal would be to make the site a primary resource in veterinary ethics. James Harris suggested that Dr. Armistead's notes from his talk at the AVMA Convention be put on the web site. The secretary, Sylvie Cloutier will contact Janice Audin from AVMA and also all the speakers of the ethics session to obtain permission to reprint speakers notes in the SVME Newsletter.

The problem of the quietness of the VETETHIC list was raised. It was decided that an effort would be made to start discussions on the list.

4. SVME investment policy

The money received from Dr. Shomer is actually in a regular savings account. It was suggested that it be moved in a higher interest rate fund. Since the society is planning to use the money during the coming year it would not be worth putting it in a higher interest account. Therefore, the investment policy of the SVME will not be changed for the coming year.

5. Timing of dues payments

Mary Kraeszig noted that the announcement of the dues notice in all issues of the newsletter created confusion. It was agreed that the dues notice would appear only in the issues preceding and following the dues renewal date (July 1), that is the May and September issues.

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Minutes of the Annual Meeting (continued)

6. Action items from committees
No action items were presented

7. Other new business
It was unanimously approved that the SVME would provide a 500\$ stipend to Sylvie Cloutier, the secretary, to attend the 2001 SVME meeting.

H. Nomination committee report
1. Election of officers

The slate of candidates for SVME officer positions is:

President-Elect: Dr. Brian Forsgren
Secretary: Dr. Sylvie Cloutier
Treasurer: Dr. Mary D. Kraeszig
Parliamentarian: Dr. Robert Speth

The president, Don Draper, announced that Jerry Tannenbaum has resigned from his position of Historian. The resignation of Jerry Tannenbaum was announced to the president after the publication of the slate of officers. Therefore, the next president, Bill Folger, will have to select a new historian for the society.

I. Install officers
The slate was approved unanimously.
New officers were installed.
The new president is
Dr. Bill Folger.

J. Adjournment
The meeting was
adjourned at 5.30pm.

Respectfully submitted,

Sylvie

Sylvie Cloutier, PhD
Secretary, SVME



SVME members and officers present at the SVME Annual Meeting include James Harris, Sylvie Cloutier, Bill Folger and Don Draper.

*Plenary Session
of the Society for
Veterinary
Medical Ethics*

*Boston, MA
July 14, 2001*

What is a Profession?

W. W. Armistead, DVM, MSc, PhD

Background

The emergence of veterinary medicine as a true profession corresponds to the development of the automobile. Both came to maturity in the 20th century, sparked by the appearance of the internal combustion engine. As cars, trucks and tractors replaced horse-drawn vehicles, many predicted that veterinarians would disappear, along with village blacksmiths. The profession had been oriented overwhelmingly to diseases of the horse, and the horse seemed to be headed for extinction. Consequently, in the 5 years after World War I, eleven veterinary schools closed and enrollments at those remaining went into a steep decline.

But wise leaders of the profession recognized that the future of veterinary medicine lay with the other domestic animals. Veterinary schools quickly turned more of their attention to food-producing animals and companion animals. Public interest in veterinary medicine began to rebound. In the 1920s the first small-animal hospitals appeared. Veterinary school enrollments burgeoned, even during the depths of the great economic depression of the 1930s. In just the 20th century veterinary medicine changed from a lowly, rustic art to an esteemed medical profession.

What Is A Profession?

The word profession suggests expertise and inspires trust, so it is no wonder that the term has been appropriated by vocations lacking the qualifications traditionally required of a profession.

Is plumbing a profession? What about football or rodeos? We accept that there are professional plumbers, football players and rodeo riders. But “professional” in this sense is used to make a distinction between an experienced, highly skilled person who pursues an activity for pay, and a volunteer, amateur or learner.

A true profession (I like the term learned profession) such as veterinary medicine can be described in more traditional terms. It has a strict, formal education background. It adheres to a self-imposed code of ethics. It accepts responsibility for continuing self-improvement. And, although cynics may sneer at the idea, a true profession is dedicated to service above financial reward.

Education

How does a professional school differ from other schools or colleges? It is devoted to both fundamental education and training in the application of knowledge. A professional college assumes responsibility for teaching students more than just technical subject matter. It guides students in their development of desirable behavioral characteristics with regard to attitude, personal appearance, ethics, responsibility, and communication skills – all important to the successful professional. Professional colleges usually require heavier course loads and maintain higher academic standards than do other colleges. And they assume an obligation to provide structured continuing education programs for their graduates.

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Professionalism

Professionalism speaks of more than just competence; it includes elements of ethics, style, and public relations. It is the erosion of these qualities that has caused the decline in public esteem for the legal profession.

Ethics

Veterinary medical ethics are simply an adaptation of the Biblical Golden Rule: Do unto others as you would have them do unto you. It behooves every true professional to live by these precepts. As Socrates said 25 centuries ago, "The surest way to live with honor in the whole world is to be in reality what we would appear to be."

Style

Professional competence and productivity are paramount, but productivity with style is much to be desired. This refers to style not as "fashion" but as "going first class," or being what in the vernacular is called "a class act."

Public relations

In these days of media hype and political spin, public relations are more important than ever. Political campaigns are as much about the personalities and communications skills of the candidates as about their political philosophies. It is doubtful that a taciturn Calvin Coolidge could be elected to high office today.

Similarly, in veterinary practice the veterinarian's appearance, behavior and communications skills are exceedingly important. Important, too, is a clean, odor-free, tastefully furnished hospital.

Impersonality

The public perception of the physician has changed during the past 60 years from that of family friend and counselor to that of medical tycoon. The change has been promoted by the growing impersonality of the doctor-patient relationship. A visit to the doctor's office means a long wait in the reception room, followed by a solitary wait in one of a row of examining rooms. Eventually a nurse or technologist appears, weighs you, takes your temperature and blood pressure, then departs saying, "The doctor will be with you in a few minutes." After another delay the doctor rushes in – between seeing patients in other examining rooms – reads what the nurse has written on your chart, spends a few minutes with you, then hurries to the next patient, leaving you to deal with someone in the front office about your bill or your next appointment.

"Family doctors" have become "primary physicians" and specialists have increased in number and diversity. House calls are a thing of the past. An illness developing suddenly at



Dr. W.W. Armistead, proceedings presenter.

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home is referred to the hospital emergency room where, after another long wait, you are treated by a harried, youthful, total stranger.

The implications for veterinary medicine are obvious. Loss of the personal relationship between doctor and patient (client) is damaging and dangerous. At a time when diagnosis and treatment are better than ever, medical malpractice suits have increased in number. It seems that patients are less likely to sue a warm family friend and counselor than a remote medical tycoon. Regardless of the outcome of a case, your client is less likely to sue you if you have shown genuine interest in the patient and appear to have taken the time to do your best.

Conclusion

The DVM degree is losing some of its indelibility. Our profession is becoming less close-knit and homogeneous than it used to be, as veterinarians move into less traditional pursuits. These changes are the price of versatility and increasing scientific sophistication. They are also signs of our professional maturity and of our growing involvement in public health and biomedical research.

Still, the profession remains a humane, dignified calling. It continues to attract students who are above average in intelligence, compassion and dependability. Let's be sure that the profession into which they are graduated receives them cordially, and sets for them an example of honest, ethical, and humane service.

What are the Ethical Foundations of the Veterinary Profession?

W. W. Armistead, DVM, MSc, PhD

Ethics is a very broad subject, which applies to the whole range of human endeavors – religion, commerce, politics, as well as the professions. This presentation is limited to a discussion of veterinary medical ethics.

An almost complete lecture on ethics can be reduced to one sentence: Do unto others as you would have them do unto you. That, of course, is the Biblical Golden Rule, which, if applied honestly and objectively, is the perfect test of whether an action is ethical. But interpretations vary and the application of ethical principles to professional behavior is not always simple.

Ideally, we would not need written codes of ethics. But human nature is flawed and there are among us some that cannot be depended upon to do the right thing every time. We labor under the burden of great governmental bureaucracies established to control crime, corruption and fraud. With few exceptions, every new law or regulation is a response to some abuse of power or privilege. If everyone followed the Golden Rule we would not need police officers or prisons or soldiers or bombs. In this imperfect world we, as enlightened, educated, influential professionals, are obligated to set an example of ethical behavior.

What Ethics Are Not

Ethics are not laws they are guides. They bear the same relationship to professional behavior that etiquette and morality bear to everyday social conduct.

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ABSTRACTS OF PROCEEDINGS (CONTINUED)

Ethics are not self-serving, they are intended primarily to benefit others. In the long run they benefit you, too.

Ethics are not easily codified. No code of ethics can cover every possible ethical question. In fact, detailed codes of ethics may do more harm than good because they imply that anything not specifically covered is acceptable.

The Status of Ethics

Acceptable ethical standards evolve slowly over the years. Lawyers and dentists no longer eschew commercial advertising. Lawyers, especially, have lost public favor and have become the frequent butt of derogatory jokes. Human hospitals now compete for patients through advertisement in the public media. Physicians and veterinarians still are more circumspect, although there is a discernible trend toward more lenient interpretations of ethical guidelines even in these professions. This may be a consequence of increased attention to the active marketing of veterinary services. There is a fuzzy line between acceptable, ethical promotion and crass advertising. One hopes that veterinarians will not follow too far along the marketing road being taken by lawyers, dentists and chiropractors.

Why Do Professions Have Codes of Ethics?

To protect the public from unscrupulous practitioners. Public ignorance about medicine makes clients more gullible, more susceptible to being cheated or misled. An aura of mystery surrounds medicine and tends to obscure diagnostic or therapeutic error. The closed-fraternity character of a profession provides opportunities for collusion and mutual protection of its members.

To protect the profession from embarrassment due to unethical behavior by some of its members.

To protect the individual practitioner from damaging acts by an unscrupulous colleague.

To elevate and preserve, in the eyes of the public, the dignity and integrity of the profession.

How Are Ethical Principles Promoted in Veterinary Medicine?

Since ethical principles are guides, not laws, they must be established, promoted, and monitored by the profession itself. Just as churches have been unable to eliminate sin, veterinary organizations have been unable to eliminate unethical practices among their members. But we have had considerable success, and we must continue to try through a profession-wide effort.

Major leadership in this effort is provided by the American Veterinary Medical Association which:

Publishes the Principles of Veterinary Medical Ethics.

Has a Judicial Council which:

Keeps the Principles up to date.

Rules on ethical questions referred to it from the constituent associations.

Records annotations (interpretations) of the Principles, based on decisions made by the Council in adjudicating ethical disputes.

Developed and promotes the Veterinarian's Oath, which is administered to veterinary students at graduation time.

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ABSTRACTS OF PROCEEDINGS (CONTINUED)

Ethical principles also are promoted by state and local veterinary associations, most of which have ethics or grievance committees to deal with complaints against their members by private citizens or by other members of their associations.

The clinical faculties of veterinary schools deal with the same ethical matters as do their colleagues in private practice. But the schools have some special ethical problems, such as student cheating and the implications of arbitrarily limiting enrollment.

Veterinary schools promote ethics in various ways.

Formal instruction in ethical principles.

Student honor or ethics codes.

Role modeling by faculty members, especially clinicians.

Role modeling is influential in the off-campus profession, too. Established practitioners can exert a powerful influence, especially on veterinarians just entering the profession.

Degrees of Undesirable Behavior

Unethical behavior ranges from what is merely in poor taste to what is frankly criminal. All are unethical, although consequences differ.

Acts in poor taste offend your colleagues, and sometimes your more discerning clients. More blatant unethical acts may result in censure by your colleagues, expulsion from your veterinary association, or ostracism from professional fellowship. Illegal acts (also unethical) may result in loss of license, fines or imprisonment.

Applying Ethical Principles to Practice

Like good manners, ethical behavior should be practiced continuously and regardless of the behavior of others. If you think you have been treated unethically, resist the temptation to reciprocate in kind. What clients tell you about your colleague is not always dependable. Never forget that some time you may be in the position of that other veterinarian. Remember, too, that you are obligated to avoid unnecessarily criticizing your colleagues' actions or impugning their motives, although nothing in our code of ethics requires you to lie or "cover up" for a colleague. In all circumstances the truth takes precedence.

Know Your Limitations

To know one's limitations is the hallmark of a true professional. If you think you may be getting in over your head, seek help – request a consultation or refer the patient to a specialist. This will serve the best interests of the patient, you will build trust of the client in your judgment, and you probably will learn something so that the next such case will not get you in over your head.

Conclusion

The practice of veterinary medicine is a public trust. We must do all we can to see that we merit and preserve that trust. The second half of the 20th century saw an enormous upswing in public esteem for veterinarians. Of course, improvement in scientific competence was responsible for much of this growth in prestige. But a large share – perhaps the largest – is due to the honest, compassionate, sophisticated image projected by individual members of the profession. These, along with advances to be made in science and technology, will assure for veterinary medicine a respected and rewarding place in future society.

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Legal Considerations in Veterinary Telemedicine

Duane Flemming, DVM, JD, DACVO

Introduction

Veterinary telemedicine can be defined as the use of telecommunication devices to provide interactive veterinary services to consumers in other locations. Veterinary telemedicine is really nothing new. For years, veterinarians have used the telephone and the facsimile machine to communicate interactively their local clients, consultants and laboratories. These forms of communication are now an integral, and presumably necessary, part of our professional relationships and, until recently, have rarely been scrutinized.

Developing interactive telecommunication technologies have made it easier for veterinarians to communicate with each other, and with lay clients, across state lines. It is those state lines, and the Constitutional issue of state rights, that have created a potential legal problem for veterinarians practicing or intending to practice interactive interstate telemedicine.



Dr. Duane Flemming, SVME presenter.

The Law Governing Veterinary Practice

The Tenth Amendment to the United States Constitution provides that:

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the states are reserved to the states respectively, or to the people.”

Included among the powers reserved to the individual states is the police power. The police power is the sovereign right of the government to protect the safety, security, health, morals and the general welfare of its citizens. Using these police powers, states protect their citizens, from unqualified and unscrupulous persons practicing veterinary medicine, through laws and regulations collectively known as Veterinary Practice Acts. Unfortunately, most of the Veterinary Practice Acts have been on the books for decades and were never intended to regulate the practice of veterinary telemedicine across state lines, much less across national boundaries. The legislatures of the many states have not kept up with the changing times and, as a consequence, many veterinarians engaging in interstate telemedicine may be in violation of one or more state veterinary practice acts.

License Required to Practice Veterinary Medicine

All fifty states and the District of Columbia protect their citizens, in part, by requiring a license of people desiring to practice veterinary medicine in their jurisdictions. Alabama's statute is typical:

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ABSTRACTS OF PROCEEDINGS (CONTINUED)

“No person shall practice veterinary medicine in the State of Alabama who is not a currently and validly licensed veterinarian or the holder of a temporary permit issued by the board.” CA 1975 § 34-29-76

The requirements to obtain a veterinary license differ from state to state but, in most states, they tend to be very complicated with many specific elements for the applicant to satisfy. Most states require that the application be in writing and contain at least one photograph of the applicant, a certified copy of his or her veterinary diploma or college transcripts, a statement that the applicant has never been arrested or convicted of a crime and has never had a previous veterinary license revoked, suspended or denied, and certification of satisfactory completion of the National Board Examination. Some states also require satisfactory clinical competency examination and some require letters of reference. A few states even require personal appearances and/or interviews. In addition, all states impose a licensing fee. Clearly obtaining a license in any single state can be a time consuming and expensive proposition. To do so in multiple states can be an onerous burden and one that is not likely to be accomplished by many people. As it now stands, veterinarians desiring to practice interstate veterinary medicine should obtain either a license from each state they intend to practice in or insure that they fall under at least one exemption to licensure before they engage in activities that could expose them to prosecution under these laws.

Veterinary Practice Defined

In all fifty states and the District of Columbia, the practice of veterinary medicine is legally defined by statute. Although the statutes are not identical in language, they are remarkably similar. Kentucky’s statute is typical:

“[The] ‘practice of veterinary medicine’ means: 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, biological, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy, or for correcting sterility or infertility, or to render advice or recommendation with regard to any of the above.” KRS 321.181(5)(a)

Some veterinarians have recently begun to aggressively market their behavior practices over the Internet. It is unclear as to what degree and under what circumstances these statutes apply to behavior modification by veterinarians. That there is an AVMA College of Veterinary Behaviorists suggests that behavior modification is an accepted component of the practice of veterinary medicine. Certainly veterinarians routinely prescribe drugs for behavior modification and even more commonly give advice and make recommendations regarding behavior problems in animals. Those veterinarians intending to market their behavior practice out-of-state should seek an opinion from the state veterinary board(s) and independent legal advice where they intend to practice.

The Giving of Advice Can be Veterinary Practice

Many proponents of veterinary telemedicine, especially on the Internet, have suggested that simple advice to consumers, without some attendant physical treatment or medical pre-

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scription, is not the practice of veterinary medicine. In fact, the laws of twenty-one of the fifty states provide the contrary. These laws show us that the simple rendering of advice or recommendation relative to the diagnosis, treatment, correction, changing, relieving or preventing of any animal disease, deformity, defect, injury, or other physical or mental condition is, at least in those states, the practice of veterinary medicine.

These statutes do not specify to whom the advice is given and would seem, therefore, to include both direct advice to consumers and consultation advice to veterinarians. It is uncertain as to whether or not the rendering of second opinions would fall under these restrictions. It is also unclear as to the extent to which the term “mental condition” includes the rendering of advice and recommendations on animal behavior modification.

Willingness to Perform

Nine of the fifty states include, as the practice of veterinary medicine, any representation to the public that the person is able and willing to do any of the acts described in the practice act as the “practice of veterinary medicine.” Colorado’s statute provides some typical language:

“Practice of veterinary medicine means...the representation, directly or indirectly, publicly or privately, of an ability and willingness to do an act described in paragraph (a) of this subsection (10);” CRS 12-64- 103(10)(b)

Advertisements, claiming that the person offering his/her services is a veterinarian, imply that the person doing the advertizing is able and willing to do those things that a veterinarian does. Persons placing such ads could be considered, in those nine states, to be practicing veterinary medicine. It is unclear to what degree these nine state veterinary boards would hold an out-of-state person liable for such advertizing.

Unlawful Use of Titles

Although it would seem that once a person graduates from any accredited veterinary school he/she should be entitled to the appellation of veterinarian and the automatic use of the letters D.V.M. or V.M.D. after their name. Surprisingly, that is not always the case. Thirty-two of the fifty states provide that the use of certain letters or titles is prohibited unless the user has a veterinary license in that state. Arizona’s statute is typical:

“No person shall append any letters to such persons name, indicating a degree in veterinary medicine, such as D.V.M. or V.M.D., or use the word doctor, veterinary, veterinarian, professor, animal doctor, animal surgeon, or any abbreviation or combination thereof of similar import in connection with such person’s name, or any trade name in the conduct of any occupations or profession pertaining to the diagnosis or treatment of animal diseases or conditions mentioned in this chapter, unless such person is licensed to practice veterinary medicine under the provisions of this chapter.” ARS Article 2 § 32- 2212 D.

Clearly, anyone, not appropriately licensed, who advertises interstate veterinary services and uses the word “veterinarian” or the letters, D.V.M. or V.M.D. could, in these states, be consid-

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ered in violation of the law. Veterinarians offering or intending to offer their services using these words or letters should seek an opinion from the state veterinary board(s) where they intend to offer those services and independent legal advice in those states.

Exemptions from Licensure

Many veterinarians have expressed the belief that they are, in one way or another, exempt from the licensing requirements of the various states. Certainly, in some circumstances, they may be. Each of the fifty states and the District of Columbia have established some exceptions to the licensing requirements. Most, if not all, do not require a license for persons working on their own animals, for medical researchers, for government employees and for veterinary students. Many states also provide exemptions for consulting veterinarians and for faculty members, although the exemptions are not standardized between the states. There is an old expression that “the devil is in the details.” That is especially true here. It is in these exemptions that veterinarians practicing or intending to practice interactive interstate telemedicine can easily run afoul of the law.

Consulting Exemptions

Thirty-eight of the fifty states and the District of Columbia provide some form of exemption to the licensing requirement when the consulting veterinarian is a licensed veterinarian in another state or foreign country and is consulting with a veterinarian licensed in that state. The Oklahoma statute is typical of these states:

“The Oklahoma Veterinary Practice Act shall not be construed to prohibit: A veterinarian currently licensed in another state from consulting with a licensed veterinarian of this state.” OSS Title 59 § 698.12(7)

These statutes clearly require that the out-of-state consultant be licensed as veterinarian in at least one state within the United States. These laws, therefore, do not appear to permit consultations by non-veterinarians, regardless of their subject matter expertise nor do they appear to permit consultations by veterinarians from another country. The statutory requirement for a current veterinary license in these states does not appear to permit consultations by veterinarians and others, such as veterinary collage faculty members, who may be exempted from licensure in the other states. By expressly stating that the consultation exemption is limited to consultations with a veterinarian licensed in the state, these statutes do not contemplate, and would actually seem to preclude, direct consultation between an out-of-state veterinarian and a consumer.

Eighteen of the thirty-eight states have enacted one or more variations to expand, limit or clarify the permitted activities of the out-of-state consultant. Because these statutes vary widely in their application and their impact, a veterinarian planning to offer consultation services in any these states should obtain a copy of that state’s practice act and make every effort to comply with the statutes and regulations of that state before engaging in consultation activity in that state.

Thirteen states have no consultation exemption. Presumably, persons not holding a license to practice in those thirteen states would be guilty of practicing without a license should they choose to consult with veterinarians or lay clients within those states.

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Consulting Permit Required

Alaska, Florida, Ohio and Wisconsin require out-of-state consultants to obtain a special license/permit in advance of the consultation. New Hampshire and North Carolina do not issue a special license or permit for out-of-state consultants but do require that they register with the state before any consultations take place. Most of these states limit the time the consultant can practice within the state and many place some restriction on the place and manner of the consultation. Given that there are thirteen states with no out-of-state consulting exemption, and another seven states that specifically require a special license or registration, it would behoove any veterinarian practicing or contemplating interstate telemedicine practice in those states to be very familiar with the rules in those states and, if necessary, to seek a ruling from the state veterinary boards and independent legal advice before starting to practice in those states.

Faculty Exemption

It has been said that veterinary school faculty members are exempt from the licensing rules and may therefore consult across states lines with immunity. This is not entirely the case. There are thirty-one states that do have some form of licensing exemption for veterinary faculty members. Alabama’s statute is typical:

“This article shall not be construed to prohibit...: A member of the faculty of a veterinary school performing his or her regular functions, or a person lecturing or giving instructions or demonstrations at a veterinary school or in connection with continuing education courses or seminars.” AC: 34-29-77(7)

Those statutes generally allow a member of the faculty of any veterinary school to practice veterinary medicine within those states, and without any additional license or permit, so long as he or she is doing so as part of their regular faculty functions or is teaching as part of a continuing education program. The statutes are unclear as to who defines “regular faculty functions”, the faculty member’s employer or the state veterinary board. Activities falling under the state’s definition of veterinary practice that are not a defined part of the faculty member’s regular faculty function could be interpreted, and therefore prohibited, as practicing veterinary medicine without a license. Many of these states have special rules that limit the duration of the exemption or specify the venues to which the exemptions apply. California’s statute is illustrative:

“This chapter does not apply to: Veterinarians employed by the University of California while engaged in the performance of duties in connection with the College of Agriculture, the Agricultural Experiment Station, the School of Veterinary Medicine or the agricultural extension work of the University.” CB& PC 4830(d)

Faculty License Required

Five states provide for a special faculty license. In three out of the five states, the statutes limit the special license to a particular school or to schools located within the individual states and do not appear to include faculty members from out-of-state schools. North Carolina’s rules are typical:

“The Board may, upon application, issue veterinary faculty certificates in lieu of a license that otherwise would be required by this article”. NCGS §90-187.14

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ABSTRACTS OF PROCEEDINGS (CONTINUED)

“ Upon written application, the Board may issue a veterinary faculty certificate to a faculty member in the college of Veterinary Medicine at North Carolina State University which certifies that the holder thereof is exempt from the requirements of licensing under G.S. 90-187.10(3). The faculty member’s certificate shall indicate that the holder is exempt from the requirements of licensing provided that the practice of veterinary medicine is confined to the faculty member’s duties in the hospital or field service unit of the College of Veterinary Medicine.” NCAC 21- 66.0203

No Faculty Exemptions

Seventeen states have no exemption from licensure based on a person’s standing as a faculty member at a veterinary school. Out-of-state veterinary faculty members intending to practice veterinary medicine in those states must qualify for another exemption or seek and obtain regular licensure in those states. Failure to do so could constitute practice without a license.

Aiding and Abetting

Liability for un-licensed veterinary practice may not be limited to those without a valid state veterinary license. In nineteen states, licensed veterinarians may, through the aiding & abetting statutes, be subject to sanctions for the un-licensed activities of others. Again, Alabama’s statute is typical:

“A licensed veterinarian shall not promote, aid or abet the practice of veterinary medicine by an un-licensed person or promote, aid or abet any illegal or unethical act on the part of any veterinarian.” AAC 930-X-1-.10 (9)

Black’s Law Dictionary defines “aid and abet” as “[to] help, assist, or facilitate the commission of a crime, promote the accomplishment thereof, help in advancing or bringing it about, or encourage, counsel or incite as to its commission.” Licensed veterinarians in these states should consider the possibility of exposure under these statutes when using out-of-state consultants that may not be otherwise exempt from licensure in their states.

Professional Association

Duly licensed veterinarians in eighteen states may be liable for merely having some professional association with persons engaged in un-licensed practice in those states.

California’s statute is typical:

“For having professional connection with, or lending one’s name to any illegal practitioner of veterinary medicine and the various branches thereof.” CB&PC 4883 (b)

The meaning of the term “professional association” has not been statutorily established and is therefore likely to be subject to definition on a case-by-case basis. Employment of an un-licensed veterinarian by a licensed veterinarian is included in some statutes and should be considered as implied in all states. Licensed veterinarians in these states should consider the possibility of exposure under these statutes when utilizing out-of-state consultants that may not be otherwise exempt from licensure in their states.

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Knowingly Employ

Twenty states specifically prohibit licensed veterinarians from knowingly hiring or otherwise employing un-licensed persons in their practices. The District of Columbia statute is illustrative of these statutes:

“The Mayor may suspend, revoke, or refuse to issue, renew or restore, a license issued under this act if the Mayor finds that the applicant or holder thereof... has knowingly employed a person who is practicing veterinary medicine unlawfully.” District of Columbia DCC 2-2729 (6)

Licensed veterinarians in these states should consider the possibility of exposure under these statutes when employing out-of-state consultants that may not be otherwise exempt from licensure in their states.

Discipline Reciprocity

In Alabama, California, Colorado, Delaware and Georgia, licensed veterinarians may be subject to discipline in their home states because of sanctions imposed upon them by other states. Colorado’s statute is an example:

“ The Board may revoke or suspend the license of, place on probation, or otherwise discipline or fine any licensed veterinarian for...Conviction of a felony in the courts of this state or of a crime in any other state, any territory or any other country for an offense related to the conduct regulated by this article.” CRS 12-64-111(1)(q)

Penalty for Un-Licensed Practice

The legislatures of all fifty states and the District of Columbia have considered the un-licensed practice of veterinary medicine within their states to be of sufficient threat to the health, safety and welfare of the citizens of their state that they have assigned penalties to be assessed against those found guilty of such practice. The penalties vary from state to state, but all states assess at least a civil fine with the majority also considering un-licensed veterinary practice to be a crime with the possibility of jail time. In some states the criminal offense, especially if repeated, can rise to the level of a felony.

Fine Only

Four states penalize the un-licensed practice of veterinary medicine within their borders with only a civil fine. In those states, the fines range from as little as \$100-\$500 for each violation in Mississippi, where each violation is a separate offense, to a maximum of \$5000 in Maryland. In Delaware, the fine is \$500-\$1000 plus costs and fees, and each day of un-licensed practice is considered a separate offense. In Wisconsin, conviction of a second offense within three years could result in a fine as high as \$3000.

Felony

In Florida, New York and Nevada, the legislature has taken un-licensed practice somewhat more seriously and considered the offense in their states to be felony. Illinois and Washington consider the first offense for un-licensed veterinary practice to be a misdemeanor crime and each subsequent offense a felony.

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Misdemeanor

The remaining forty-five states and the District of Columbia can assess civil fines and/or misdemeanor criminal penalties for un-licensed veterinary practice. In these states, the civil fines range from as little as \$50 in Georgia to as much as \$20,000 in New Jersey. The criminal penalty can be up to one year in jail. In Alabama, the offender can be sentenced to hard labor for up to six months. Persons engaging in interstate veterinary telemedicine face potential prosecution in each state for which they do not possess a valid license to practice. Taken to an unlikely extreme, such a person could face charges and penalties in 50 separate jurisdictions. The trouble and expense of having to defend themselves in so many places would be immense not to mention having to settle the fines if found guilty. Persons contemplating interstate veterinary practice should seriously consider these issues and get appropriate legal advice before starting practice.

Jurisdiction

Normally, a state's jurisdiction over individuals ends at its borders. However, persons violating the provisions of the various state Veterinary Practice Acts can be held responsible for those violations even when they are beyond the borders and do not reside in the state charging them with the violation. This kind of remote jurisdiction occurs through what are called "Long-Arm" statutes. California's statute is typical:

"A court of this state may exercise jurisdiction on any basis not inconsistent with the constitution of this state or of the United States." CCCP 410.10

Under these statutes, when there have been enough "contacts" between the person and the foreign state charging the violation, personal jurisdiction is granted. What constitutes adequate "contacts" is a complex legal subject far beyond the limits of this paper. Suffice it to say that, insofar as veterinary telemedicine is concerned, financially-motivated, interactive contacts with the foreign state will most likely give rise to the required personal jurisdiction. On the other hand, strictly passive, informational telecommunication will not likely result in personal jurisdiction by the foreign state.

Conclusion

Changing technology will insure that veterinary telemedicine will not likely dry up and blow away. Rather it is certain to expand, probably far beyond what we can even now imagine. Consumer protection law, in the form of the various Veterinary Practice Acts, requires that the states protect their citizens not only from licensed veterinarians providing inaccurate and unsound medical advice and treatment but from veterinarians or others engaging in un-licensed practice, even where the advice or the treatment is sound.

In the past, and for a multitude of reasons, state veterinary boards and state Attorney Generals have been reluctant to prosecute anyone, much less veterinarians from out of state, for illegal interstate practice. This fact does not, however, preclude future activity in that area. With the increased attention being paid to these activities by other professional boards, such as medicine, pharmacy and law, as well as by the federal government, it is unrealistic to think that the veterinary regulatory community can or will ignore it for much longer.

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ABSTRACTS OF PROCEEDINGS (CONTINUED)

Veterinarians and others who are currently engaged, or who plan to engage, in interactive, interstate veterinary telemedicine could minimize their exposure under these laws, by disclosing the state they are communicating from as well as the state they are licensed to practice in or the basis for their exemption from licensure in that state. They should also make a disclaimer for out-of-state clients a prominent part of their advertising materials. They should check the legality of their activities with the veterinary state board of each state they intend to do business in as well as with the state veterinary board in the state they are licensed in.

As for the future, all veterinarians should, for the protection of their clients and probably for themselves as well, urge their state veterinary boards to work together to adopt consistent and enforceable minimum standards of veterinary telemedicine practice, especially as it concerns defining the doctor-client-patient relationship and the minimum requirements for the recording and maintenance of client records. They should, to minimize liability, urge their legislatures to amend the existing state laws to require that each out-of-state veterinarian appoint an agent for the purposes of service of process arising from any action involving such practice. Despite the inherent desire of each state to maintain their individual sovereignty and of veterinarians to protect their turf, veterinarians should urge their legislatures to at least consider allowing for some form of multi-jurisdictional licensure. Certainly, if the states fail to act responsibly in these areas the federal government may be forced to.

Ethical Concerns Pertaining to Providing Online Veterinary Information and Telemedicine

Anthony Schwartz, DVM, PhD, Diplomate, ACVS
Tufts University School of Veterinary Medicine

Our clients search the Internet for information on their medical conditions, and increasingly they are doing so for their animals' health issues. They come to veterinarians armed with printouts of such information. This challenges practitioners but, in general, an educated client is a better client. Additionally, veterinary telemedicine is on the rise – practitioners not only search online for veterinary medical information, ever more they seek online clinical consultation. What professional ethical concerns pertain to providing online information or telemedicine services?

This presentation is not a scientifically based treatise. I am neither an ethicist by training, nor an attorney. What I portray here is the thinking that led to Tufts' approach to the involvement of our faculty in providing online information for laypersons and veterinarians. This will serve as a basis for discussion.



Dr. Anthony Schwartz,
SVME presenter.

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ABSTRACTS OF PROCEEDINGS (CONTINUED)

On the face of it, online transmission of health information to laypersons is not “the practice of veterinary medicine”, and it may fulfill the ethical responsibility of veterinarians to make their knowledge available to their communities. But an indistinct line can be crossed, beyond which information provision could be interpreted as practice and unethical. Part of the reason the line is blurry is that there are honest differences in opinion about what is acceptable. My overriding hypothesis, however, is that it is not the means of providing information that causes it to be unethical, it is what and how it is transmitted. Three major categories of providing information are considered here.

Static Animal Health Information – searchable information, placed on line, with no direct interaction between the consumer and the expert. Animal owners can obtain veterinary textbooks and journals and read about a pet’s health condition. Are the writers of such content unethical? I think everyone would say “no”. Is the provision of similar information online any different? On the other hand, would it be unethical for the veterinary author, regardless of the vehicle, to suggest to readers/owners of dogs with certain clinical signs that a specific disease must exist, which should be treated with certain over-the-counter remedies? Many would say “yes”.

Websites exist that provide online static information for laypersons, e.g., PetPlace.com. Some Tufts faculty write content for PetPlace, with which Tufts has an equity position. Gratis at present, a somewhat higher level of information will be accessible by subscription in the future. Further, there are plans for a veterinarian targeted information site, to be called VetPlace.com. Is any of this unethical?

Interactive Provision Of Animal Health Information – some websites allow laypersons to request targeted information or answers to questions. An expert responds, for a fee or gratis depending on the site, the nature and complexity of the question and the expert. Some websites will not allow such interactivity, because if not handled properly (e.g., if a presumptive diagnosis or a treatment suggestion is provided), it could constitute the practice of veterinary medicine, leading to ethical and legal concerns. But would the implications be different if such information had been given by facsimile or telephone?

For more than 10 years Tufts has been successfully offering interactive information transfer via our facsimile services for veterinarians (VetFax) and laypersons (specifically behavior problems - PetFax). As an extension of these services, starting a couple of years ago, we experimented with allowing our faculty to provide online interactive information via a website called ExpertCentral.com (now defunct). It is equally important for phone, facsimile or online contacts with animal owners to avoid even the appearance of the practice of veterinary medicine or ethical breaches. Faculty must not offer diagnostic or treatment suggestions without a valid veterinarian-client-patient relationship (VCPR) through any of these means of communication. At Tufts, we have judged that if disease information is requested, faculty may list the most common conditions compatible with the information provided, methods of management used to treat these conditions, and suggest that a veterinarian needs to examine the animal or do tests to distinguish among these conditions.

Telemedicine – There are at least two different types of online veterinary practice: Online consultation between an expert/specialist and the primary care clinician (attending

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ABSTRACTS OF PROCEEDINGS (CONTINUED)

veterinarian). In this case, the consultant is asked to interpret clinical or laboratory test information, help develop a rule-out list, suggest diagnostic tests, or discuss treatment options for the attending veterinarian. The attending veterinarian retains case responsibility, and must decide on and implement the course of action. This is important, to assure that the practice of veterinary medicine is not occurring across state lines (legal issue), that a diagnosis is not given without a valid VCPR (ethical and legal considerations), and to prevent a transfer of allegiance to the consultant (possible ethical issue).

Practicing online, taking primary responsibility for the patient, without having performed a direct physical examination.

When this would be ethical.

A veterinarian who has been caring for a patient with an ongoing condition provides is updated and updated and advises alterations in treatment online, as frequently is done by phone.

When this would be unethical.

An animal owner asks advice online about the management of her lame dog a veterinarian has never seen. The veterinarian diagnoses probable ruptured cruciate ligament and suggests treatment options. She then writes back, choosing an option, and the veterinarian calls in a prescription to a pharmacist.

In other instances the distinction between ethical and unethical methods might vary with the circumstances.

For example, a board-certified surgeon has established an online telemedicine consultation service for veterinarians. A layperson, who had heard about the service, contacts the consultant directly on line, though she has not been his client. She is on vacation with her dog in a state where the veterinarian is unlicensed, and is a four-hour drive from the nearest veterinarian. She has an electric generator and a complete computer-based video and voice communication setup. She shows the surgeon the live image of her 6-year-old German shepherd dog, who in the past 30 minutes has started to breathe with distress and whose abdomen has rapidly increased in size and sounds like a base drum when percussed. Would it be ethical for the veterinarian to suggest that this probably is an emergency, that she should immediately fashion a tube from garden hose, and, using a mouth gag, guide her to pass the tube and decompress the stomach? What if this communication had been by phone? What if this person lives three blocks from an emergency clinic? The point is, the same action might be unethical or ethical, minimally or not at all affected by the means of communication; it depends on the circumstances, and how it is done.

Providers of online information or telemedicine do so for a multitude of reasons. For example, at Tufts concluded that: 1) The Internet provides a wealth of information, with little quality control. Providing accurate online information is an extension of our outreach programs – the lifelong education of veterinarians and our obligation to inform the public on animal health issues; 2) We believe telemedicine increasingly will become integral to the practice of veterinary medicine, and feel compelled to become involved with this as an extension of our leading edge clinical services; 3) It is difficult to provide our academic clinicians with salaries competitive with clinical practice; this is another source of income for them, and 4) These efforts provide our entrepreneurial institution with income to enhance core teaching, research and service functions.

SVME photos provided courtesy Dr. D.D. Draper

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