

## **Barks ‘n Bytes 2018 Articles (VDA South Africa)**

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## **Comment on Letter from the SAVC Regarding the VDA's Last Barks 'n Bytes (Article 520)**

Although this article relates to the South African Veterinary Council, the issues discussed here are just as valid for almost every other veterinary board in the world. Most boards around the world violate the basic human rights of their licensed/registered veterinarians, just as the SAVC does in South Africa.

In a recent edition of Barks 'n Bytes, we discussed the conduct of the South African Veterinary Council in prosecuting Dr A for having euthanized an ill dog without running a battery of tests, even though the owner had instructed Dr A to do so and had signed a VDA consent to euthanasia form prior to the euthanasia.

The SAVC took umbrage at the VDA's article and wrote a letter to each member of the South African profession, dated 16 November 2018, signed by the Chair of the SAVC Investigation Committee, Dr Glen Carlisle (there is no indication of who composed the letter). This letter contained a string of myths and obfuscations.

The myths

The first myth relates to the sub judice rule. There is an interesting article entitled Constitutionally Speaking regarding the abuse of the sub judice rule by politicians attempting to avoid accountability. (See <https://constitutionallyspeaking.co.za/dont-hide-behind-non-existent-sub-judice-rule/>).

The VDA's Barks 'n Bytes article was an opportunity for the SAVC to try to justify its prosecution of Dr A. Instead, it appears as if the SAVC has tried to invoke the sub judice rule as an attempt to avoid its duty of accountability to the profession and the public. The only reasonable conclusion, then, is that the SAVC is unable to justify its prosecution of Dr A. If it still even exists in South African law, the sub judice rule can never be invoked in order to block the free flow of information. The SAVC can never block dissemination of information that may show that the SAVC acts unlawfully and in violation of the rights of accused veterinarians.

The second myth propagated by the SAVC is that the VDA is defaming the SAVC by publishing articles criticizing the SAVC. It is clear that the SAVC either does not understand the law of defamation in South Africa or chooses to subvert it. While any statement that diminishes the good name of another is defamatory per se, there are numerous grounds for justification, such as truth, public interest, fair comment, etc., that excuses such defamation.

The third myth is that of the "reasonable veterinarian test", the test used in South African law to test whether the conduct of the accused veterinarian meets the required minimum standards of practice. At a review workshop held by the SAVC on or about 6 October 2016 to allegedly change the profession's

perception that “the SAVC wielded a big stick”, Dr Glenn Carlisle, representing the SAVC (and Chair of the committee that effectively decides the fate of accused veterinarians), informed the meeting that the reasonable veterinarian test was defined as "what the majority of veterinarians would do". Dr Carlisle and the SAVC are wrong. The reasonable veterinarian test is an objective test based on fact, measured against known standards. The subjective thoughts and feelings of a majority of members of the profession, are not just irrelevant but actually show that Dr Carlisle and the SAVC do not understand how this most basic and fundamental test should be applied – a serious indictment on the SAVC. If the SAVC doesn't understand the test, then how could it possible apply the test properly?

The fourth myth propagated by the SAVC is that the SAVC's disciplinary process has credibility. The VDA can attest to the perception of the majority of its members that the SAVC's disciplinary process has no credibility. It is a jumble of confused concepts, conflicts of interest, biases, prejudices and ignorance. The SAVC's opportunity to apply arbitrary discipline and to be vindictive towards the veterinarian is much feared. Yet the SAVC refuses to engage with or debate the issues with the VDA (the only veterinary professional defence organisation in South Africa) and appears determined to avoid making any improvements to their flawed process.

The fifth myth is that by prosecuting cases like this, the SAVC acts in the best interests of the profession, the public and animals. The best interests of the public and of animals can only be served by veterinarians that are clear about professional boundaries and who know that they can go about their business safe from arbitrary prosecution. What message does the SAVC send to the profession, when it prosecutes a veterinarian for euthanizing an animal on the instructions of, and with the written consent of, the owner?

International law requires that minimum standards of practice be clear, codified, reasonable, widely accepted and available to the profession to study and digest BEFORE the veterinarian commits an offending act. In fact, Section 35 (3)(l) of the South African Bill of Rights DEMANDS that every accused person has a right not to be convicted for an act or omission that was not an offence under either national or international law at the time it was committed or omitted. As long as the SAVC continues to ‘make up’ new standards of care after the fact, based on the complaint, in order to convict veterinarians, the SAVC will be acting unlawfully and to the detriment of the profession, the public and animals. The prosecution of Dr A is based on standards of care that do not exist and have been cobbled together only in order to convict him. Think of the chaos if the state prosecutor was able to fabricate the definition of a crime in order to prosecute people in court.

The sixth myth implies that the SAVC is obliged to proceed with an investigation and hearing every time an owner files a complaint. In fact, the exact opposite is true. The SAVC makes the statement “Both sides of the story [complainant and veterinarian] must be considered." This statement is only true once the SAVC has screened the complaint when it is first received and has applied its mind to the complaint in isolation without reference to the accused veterinarian and has decided that it is justified in placing the accused veterinarian on their defence. Before the SAVC is entitled to encroach on a veterinarian's space, the SAVC is obliged to have made the judicial (fair, proper and justifiable) decision that the

owner's allegations, if proven, would amount to conduct that falls so far below the minimum required standards of care as to require censure. If the complaint does not meet these criteria, then the complaint must be dismissed without interfering in any way with the accused.

State Prosecutors have the very important job of sifting out frivolous, vexatious and groundless claims from those that constitute real criminal conduct and are OBLIGED TO DISMISS such complaints. Equally, every veterinary board, including the SAVC, has the very important duty to screen and dismiss unfounded complaints, without reference to the accused veterinarian. A failure to do so makes any further proceedings an unlawful and gross violation of the accused veterinarian's rights.

The SAVC, as well as a number of other Boards, has the muddled belief that screening is "part of the investigation process". Anyone that believes this simply does not understand the simple meaning of the word "screening". It beggars belief that the SAVC thinks that it is right or fair or proper to put innocent veterinarians through months or years of mental anguish and expense, as if veterinarians are obliged somehow to endure this pain just so that they can be vets.

It is hard to imagine, when you become familiar with the SAVC's attitude, that we live in a modern age with Rule of Law and a Bill of Rights that was especially designed to redress the fact that South Africa was a country with a disgraceful history of human rights abuses. The Bill of Rights is there to protect every one of the country's citizens, and veterinarians are not excluded from this protection. It seems, rather bizarrely, that the SAVC (and so many other boards) do not believe that the law applies to them.

The obfuscations

The first obfuscation is the statement that "Requests have been forthcoming from the veterinary profession requesting Council's intervention regarding statements made by the Veterinary Defence Association [VDA]."

The profession is made up of two parties: the majority of the profession that is dismayed at the manner in which the SAVC conducts itself; and the minority that support the SAVC against all the odds. It is extremely doubtful whether any clear-thinking, fair-minded veterinarians requested the SAVC to "intervene", as claimed. Perhaps the SAVC could provide the profession with the list of vets who allegedly asked the SAVC to intervene, so that we can test this averment.

The second obfuscation is that the SAVC has accused the VDA of attempting "to negatively influence possible proceedings" (sic). The point is not whether the VDA will or can or is trying to influence proceedings - the point is that the VDA is trying to stop the SAVC from destroying good South African vets, by subjecting the SAVC's conduct to scrutiny by the profession and the public. It is surely up to the profession and the public to decide whether the SAVC is really protecting their best interests. And the profession and the public can only get to make such judgements if they are presented with the information.

The bottom line is the SAVC should not be proceeding against Dr A at all. Period.

The councillors that serve on the SAVC are protected from liability only if they act in good faith. It is apparent that these councillors do not act in good faith and it is only a matter of time before a class action is filed against each of them as individuals for damages. And they will not be allowed to use the profession's funds to pay for their legal fees and damages.

The VDA has decided to refer a complaint against the SAVC to the South African Human Rights Commission.

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## **The Dangers Of Proceeding With Unscreened Complaints (Article 519)**

The NSW Veterinary Practitioners Board, as with all professional vocational boards, has the duty to screen a complaint before placing the accused veterinarian on his or her defence. The VDA knows that the NSWVPB obtains permission from the complainant in a case to approach other treating veterinarians and obtains information from veterinarians who are not the subject of the complaint as background to the complaints that they review.

The case we are about to examine displays the fact that the date of the client's complaint is the same date on which the Board wrote to Dr A. Therefore, no pre-screening of the complaint could have taken place.

And then, even though the complainant filed a complaint that was blatantly frivolous, vexatious and without grounds, with a background that demonstrates that other veterinarians and even a pharmaceutical company had evidence of Mr X's irrational behavior, the NSW Veterinary Practitioners Board decided to proceed with the investigation.

Mr X's dog was a 9 year-old excitable and hyperactive Jack Russell, who had presented some two years previously having collapsed twice over the period of a month. After a year of treatment and consultations with various specialists it was decided that the dog was suffering from Canine Immune Mediated Hemolytic Anemia (IMHA) as well as Disseminated Intravascular Coagulation (DIC). At some point, one of the consulting vets had mentioned that IMHA was sometimes caused by vaccinations, although there was nothing to prove that this had been the case with Mr X's Jack Russell. Mr X latched onto this explanation, and became more and more obsessed with it as time went on, even refusing to allow his dog to have her annual injections. Earlier on, when a bone marrow biopsy was suggested, Mr X became angry and asked what the point was of trying to diagnose cancer since it could not be cured. When Dr A emphasized that he needed to make a proper diagnosis so that he could supply a proper treatment regime, Mr X demanded investigation of diet toxins, insect bites and vaccines.

Mr X insisted that Dr A contact the pharmaceutical company who had manufactured the vaccine that had been given to his dog (5 months earlier) to report an adverse incident. Dr A humored Mr X and contacted the pharmaceutical company. After enduring verbal abuse from Mr X, the company decided not to communicate any further with him.

The dog's condition was controlled for the next few months with prednisolone but relapsed when the treatment was stopped. The dog developed cushingoid symptoms as a result of the treatment. Doxycycline was added to the treatment and, for a few weeks, Cyclosporin. Over this period, according to Dr A, there were many occasions when Mr X refused investigation of symptoms, unilaterally altered treatment regimes, or elected to do "the bare minimum". His behavior was cause for concern at the

various veterinary specialists practices, as he became overheated and abusive at almost all of these consultations. He became more irrational as time went by. Most interestingly, he claimed that Dr A was trying to cover up a conspiracy between the pharmaceutical regulatory authorities ("the Government") and the pharmaceutical manufacturers.

Mrs X made known to the consulting vets that the stress of the medical and treatment costs over the year had caused emotional strain in the household. The owners came to the decision to euthanize the dog, who was now suffering from syncope, IMHA, diabetes, pancreatitis, and interstitial cystitis. The whole family attended the practice to say their farewells to their pet. During the euthanasia, Mr X became abusive and was told to go outside.

One evening, a year later, Dr A discovered that Mr X had been telephoning the clinic continually during the day and verbally abusing the staff. He told one nurse he was "going to get her". He insisted that Dr A call him back, and when Dr A did so he was also verbally abused, with Mr X saying he would "burn the clinic down" and "get" Dr A because "he [knew] where he was".

It was obvious that Mr X had become a danger and Dr A called the police. Their advice was to keep the clinic doors locked and only let clients in and out one at a time. They took statements from staff and advised that Dr A take out a Personal Violence Order (restraining order) against Mr X. Dr A successfully applied for the order, which triggered Mr X to write the complaint to the Veterinary Practitioners' Board. We know this because the date of filing the restraining order is a mere few days before Mr X filed his complaint with the Board.

A family member of Mr X's, who held himself out to be Mr X's lawyer, then called in at Dr A's practice and, according to Dr A and his staff, behaved in a manner that was obnoxious and intimidatory. Mr Y demanded to speak to Dr A. He claimed that he had applied to have the restraining order annulled and wanted to make a private agreement (i.e. without record in court) that Mr X would not approach the clinic if Dr A withdrew his application. Dr A did not agree to this and refused to sign this persons' documents and forms. Dr A then appointed a lawyer who represented him in court when the application for annulment came up. It turns out the application was requested based on the fact that Mr X had missed the hearing earlier in the day. This order was annulled, but Dr A's lawyer requested a fresh restraining order be put in place and this was granted. The VDA was not involved at this point. At the very least, we would have insisted that Mr X withdrew his letter of complaint to the Board as part of the new order.

Unbeknownst to the VDA, Dr A submitted a response to the board which he decided to draft himself. One of the main benefits of VDA membership is that we assist our members in drafting responses their to board complaints. We have been doing this for more than 25 years through thousands of cases and there is no other organisation with our expertise and knowledge. We draft responses that are clear, concise and legally and factually accurate, whilst if possible, also being watertight defences.

When a veterinarian decides to draft their own responses to veterinary boards, a number of risks and

problems can occur. For example, Dr A's response prejudiced his defence and probably caused the Board to lengthen the time taken to deliberate, thereby causing more undue stress for Dr A. Another area of risk is that, when drafting his own letter, Dr A used wording that could potentially have voided his insurance cover.

Fortunately, even though the defence had been poorly drafted, the board exonerated Dr A.

The big danger that could lead from the Board allowing this hearing to take place is that Mr X would have taken this to mean he was being taken seriously. Instead the case has been dismissed. This could possibly fuel Mr X's ire and provoke him into action sometime in the future. Consider that he had festered for a whole year after the euthanasia of his pet before he began his threats against Dr A and his staff. (Reading newspapers and watching television reports from around the world daily will amply demonstrate what mentally ill people may do when they feel aggrieved. Mass shootings in America and needles in strawberries in Australia are just a few recent examples).

This case reminds us of the case in South Africa, in which an owner's cat was presented to a VDA member, moribund, with pus pouring out of the vulva, after the cat had been in partus for 1-2 weeks and the owner had cut open the vulva with a razor blade to try to pull the kittens out. When the owner heard that the cat had died, the owner returned to the practice with a gun, held the receptionist (our member's son) hostage, then fired at our member. The owner was arrested by the police, but let out the following day - and the police even returned her gun to her! The South African Veterinary Council not only took the owner's complaint seriously, but eventually also decided to hold a hearing in which this mentally ill owner was brought into the same room as the defendant, his legal counsel and the members of the board's disciplinary committee, thereby placing the parties concerned at great personal risk.

When dealing with any owner who exhibits overt signs of mental illness, the VDA urges you to contact us immediately to discuss the situation. These situations need to be dealt with urgently, the relationship with the owner terminated as soon as advisable, and the necessary legal steps be taken, including involving the police, applying for restraining orders, etc., to safeguard you. Dr A's first mistake was to tolerate Mr X's behaviour for far too long, thereby compounding the situation as well as placing himself, his staff, his clients and his practice at greater risk.

The message here is that clients with mental health problems need to be dealt with firmly and with great circumspection, so as to contain their behavior and give them no opportunity to place veterinarians, clinic staff or the public in jeopardy. By proceeding with an investigation and a hearing into a frivolous and vexatious complaint, a Board may incite such an individual and inadvertently unleash much further harm.

## **A Gross Misapplication of the Law Regarding Veterinary Discipline (Article 518)**

This article illustrates the point that Veterinary Boards often have a poor and misguided understanding of how the law operates with regard to veterinary professional discipline. This case involves the South African Veterinary Council (the SAVC), but it happens regularly with most other veterinary boards around the world.

In this case, the owner gave written consent to euthanasia, but then tried to backtrack later by claiming that her dog was not ill enough to warrant euthanasia, that blood tests ought to have been performed, and that the veterinarian concerned placed her under emotional duress and forced her to euthanize her dog. To embellish her lies, she even claimed that the veterinarian concerned hated that particular breed of dog (Sharpei).

### Background:

Mrs X's Sharpei dog was ill and Mrs X phoned around the local practices to see which, if any, would be willing to extend her credit for the treatment. Mrs X knew Dr A's wife as they were members of the same horse riding club and so Dr A accommodated Mrs X. Mrs X drove more than 20 kilometers and past numerous other practices on the way to Dr A's practice. Mrs X's dog was chronically ill and Mrs X was concerned about an ear infection and diabetes based on signs of polydipsia.

Since Mrs X requested credit, and placed Dr A under severe financial constraints, so he proceeded to perform three screening in-house tests – a urine specific gravity test on a refractometer (which was found to be dilute (hyposthenuric)); a urine dipstick (which was normal), and a blood glucose (which was also normal).

Dr A explained his findings to Mrs X in detail using a flow diagram of decision making from Ettinger's in relation to the signs and test results. Dr A gave Mrs X some options for further testing, treatment and referral to a specialist, as well as time to consider these.

Mrs X informed Dr A that her dog was suffering too much and that she could not put her dog through more suffering. Mrs X raised the option of euthanasia and Dr A discussed this with her.

Mrs X then requested euthanasia and signed a consent for euthanasia form.

It appears that, Mrs X, realising that her husband disagreed with her decision to have their animal euthanized, chose to shift the responsibility for the decision to euthanize onto the veterinarian. Not only did she lie to her husband, but she then felt compelled to go on to make false complaints to the veterinary board. She certainly demonstrated a lack of conscience by being willing to make a complaint that could potentially destroy a professional person's career rather than tell her husband the truth.

Dr A's version of events is supported by his contemporaneous clinical notes, and is corroborated by his wife's version of events (Mrs A is also the practice manager).

The complaint:

Mrs X filed a complaint against Dr A with the SAVC.

Mrs X claimed that she had not understood what Dr A had explained to her, that she was in shock when she agreed to put her dog down and could not comprehend the medical information, as she was not a veterinarian. Yet, Mrs X also stated that she “knew [she] signed to have [her dog] put to sleep”.

Mrs X claimed that when the shock become bearable, she was able to focus and reflect on what happened, and it felt to her that she and her dog had been violated.

Initially, the SAVC informed the VDA that Dr A had contravened the so-called Code of Conduct. The so-called Code of Conduct is not written into law, and furthermore, at best is only advisory. The VDA assisted Dr A to prepare an answering affidavit. When the SAVC received Dr A’s response, they decided to change tack with a new set of allegations, even though the response exonerated Dr A. To make it worse, this new case is based on non-existent standards of practice. The SAVC appears to be determined to convict Dr A, even though his conduct and treatment exceeded minimum standards of care. And, even though this is a new set of allegations, the SAVC has given no opportunity to Dr A to respond to these.

The charges

1. Dr A examined a patient Sharpei, presenting with symptoms of polyuria and polydipsia and negligently euthanized the patient without performing basic tests such as haematology, serum urea, creatinine, electrolytes, amongst others, as a reasonable veterinarian would have conducted to establish a possible diagnosis and prognosis, instead of relying on a creatinine test without urea only, which was not sufficient to establish a possible diagnosis and prognosis;  
in the alternative
2. Euthanized an animal without making a proper prognosis and diagnosis having failed to conduct basic tests as a reasonable veterinarian would have done; and/or
3. Allowed the owner to sign a consent form to euthanize the patient based on an incomplete diagnosis and prognosis.

Why these charges are grossly incompetent:

The charges are fatally flawed, since they are not only incompetent in law but are based on entirely false premises.

In law, animals are generally considered to be property and only the lawful owner can determine what happens with that property. A veterinarian can advise an owner, but the final decision remains with the owner. A veterinarian cannot make an owner agree to tests. In this case, the owner agreed only to the three basic tests that Dr A performed. If an owner refuses to undertake or pay for further tests, as in this case, then there is nothing that Dr A can do about it. It is most certainly not a failure on Dr A’s part.

If the owner wants their dog euthanized, then there is nothing that a veterinarian can do about it. The veterinarian can certainly refuse to carry out such a euthanasia, but the veterinarian cannot prevent the owner from having her animal euthanized.

There is no general legal or ethical duty on a veterinarian to provide a diagnosis and/or a prognosis.

EVER. There was no legal or ethical duty on Dr A to give Mrs X a diagnosis or a prognosis. The SAVC's premise that Dr A did not subject the animal to sufficient tests in order to reach a diagnosis or prognosis, rendering the euthanasia negligent, demonstrates a gross misunderstanding of the law.

Nowhere in the veterinary legislation in South Africa does it state that it is a transgression or a failure to meet minimum required standards if a veterinarian does not perform sufficient tests to make a diagnosis or a prognosis before euthanizing an animal. Sick animals are euthanized by veterinarians without tests or a diagnosis or a prognosis as a matter of course throughout the world every day: the owner's decision to euthanize is based inter alia on the owner's attitude, beliefs and finances and not necessarily on what's best for the animal. [In fact, millions of perfectly healthy animals are 'euthanized' every day around the world for the meat industry]. It is totally absurd for a veterinary board to hold that euthanasia in the absence of testing, diagnosing and prognosing is unreasonable and/or a failure to meet standards.

For non-RSA members:

The SAVC's hearing against Dr A is due to take place in November 2018. We will let you know the outcome in a forthcoming newsletter.

This for RSA members only:

The hearing is to be held on the 13 November 2018 in the SAVC offices in Pretoria, South Africa. These hearings are open to the public, therefore VDA members are entitled to attend. The VDA invites you to attend this hearing, so that you can see and judge for yourself how the SAVC conducts itself against the profession.

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## **Honesty in Veterinary Practice (Article 517)**

Honesty is a facet of moral character whereby we make the conscious decision not to lie, steal, cheat, or deceive in any way. When we are honest and truthful, we build strength of character that will allow us to be tried in a fair manner and be viewed as accountable for our actions. We all lie. Admittedly, most of us do so only occasionally. Yet most of us also consider ourselves honest. In his book, *The (Honest) Truth about Dishonesty*, Dan Ariely offers evidence that we are able to believe we are honest even though we lie or cheat by doing so only in little ways. We are therefore able to tell ourselves we're mostly honest—that is, we're only dishonest in ways that we think don't matter. Apparently this strategy works: most of us don't suffer serious cognitive dissonance over our integrity. Thus it seems we can have the best of both worlds without too much work: we can lie or cheat in little ways that place us at an advantage, but still get to view ourselves as fundamentally honest.

But are there good reasons to be honest even when we don't think we need to be? Of course. Here are just three: even telling a small lie risks being unmasked as a liar, which would not only damage our reputation but also reduce the proclivity of others to trust us; further, one lie often leads to the need to tell another, more significant lie, which risks even greater negative consequences if discovered; finally, we can't necessarily predict the consequences of telling even a small lie, and if such consequences turn out to be more significantly adverse than we anticipated, our sense of responsibility and therefore guilt (<https://www.psychologytoday.com/intl/basics/guilt>) could cause us far more distress than we imagine.

A veterinarian in the UK was suspended from practice for 12 months for fabricating an email, which he claimed to be from a veterinary office at the Animal and Plant Health Agency. This Veterinarian, Dr A, had sent the email to his client, Mrs Z in July 2014 which was the day that her horse was due for insemination using a sample from a horse in Germany. The sample had unfortunately arrived without the required trade certificate. Dr A attempted to contact the relevant authorities for alternative authorization of the sample, which it seems was denied him.

Dr A sent a fabricated email to Mrs Z, advising her that he had received the required authorization to proceed. He used an email he had previously received regarding another matter, as the base on which to form the fabrication.

Dr A was facing charges of “Fabricating an e-mail purporting to be from the veterinary officer at the APHA, authorising use of semen from a horse for insemination, when in fact he had not received such authorisation” and “Dishonesty in relation to the e-mail described above.” A further charge was “His conduct gave rise to the risk of spread of infectious disease which had the potential to affect equine animal health and welfare in the region.”

Dr A admitted the first two charges to the committee, but denied that his actions had given rise to the risk of disease. The Committee found him guilty of the first two charges.

When considering the third charge, they took into account that Dr A had received verbal confirmation that the sample was safe and healthy to use. The Committee found that his entire course of action had fallen far short of what is expected of a veterinary surgeon, and that it amounted to disgraceful conduct in a professional respect.

There were aggravating factors which the committee also took into account, “namely the risk of injury to animals, an element of pre-meditation, a disregard for the role of the APHA, impersonating a fellow veterinary surgeon, and intending to deceive a veterinary surgeon as well as a member of the public.” The mitigating factors the committee also looked at were that the animal did not get injured, and that the incident was an isolated event in his unblemished career. It was also noted that Dr A was not going to be making a financial gain from his actions.

The Committee decided to order the Registrar to suspend Dr A’s registration for 12 months.

#### Reasons For Dishonesty

In general, we lie and act in a dishonest manner to obtain the advantage of protection. We protect:

1. Lying often done in order to avoid suffering painful consequences, shame, embarrassment (<https://www.psychologytoday.com/intl/basics/embarrassment>), conflict or financial loss.
2. Probably the second most common reason we lie is to get what we want. We lie to get material goods (like money) and non-material respect and admiration (like a fisherman explaining how big his catch was).
3. We all want others to think positively of us, yet we all do things we consider less than respectable at times. Rather than admit it, however, and suffer a diminution of others' respect, we often cover it up. Or, having failed to act courageously and virtuously, we lie to appear more courageous and virtuous than we are.
4. We often lie to avoid expending energy or time doing something we really don't want to do (going out with a friend we find boring, attending a party we know we won't enjoy, working on a project about which we're not really enthused) but don't feel comfortable admitting.
5. When asked if we like an outfit, gift or movie, we often lie to protect our loved one’s feelings.

Further, when confronted with a situation in which telling a lie seems expedient and beneficial, the mental calculus we perform often suggests that lying—despite the theoretical risk—is almost always a safe choice. That is, most of the time we really do find ourselves getting away with it. So we continue to think of lying as a useful tool.

#### The VDA On Honesty

The VDA has a good chance of defending members in almost every situation, provided that the member acted honestly. When the defence of a member revolves around standards of care, then there are all sorts of defences that the VDA can put forward to defend you. But if you act dishonestly or fraudulently, it is not likely that we will be able to save you. As a veterinarian, to make an error is human, but to lie

about it is unforgivable. Errors happen all day to the best of veterinarians, but lying, cheating or even trying to cover up a mistake is an indictment on your fitness to practice your profession.

So when you are standing in practice, faced with the dilemma of facing up to an adverse outcome versus lying or fabricating to save face, please choose the former.

Finally, the sooner you contact the VDA, the more we can do to save you. We will help you manage the situation from that point forward, and we will help you to reduce the negative aspects of your case that already exist. Alternative Dispute Resolution (ADR) is the best tool available to settle disputes with owners, and the VDA has a 92% success rate in greatly reducing the number and severity of veterinary board complaints as well as malpractice litigation.

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## **Like Pulling Teeth (Article 516)**

In this Barks ‘n Bytes we discuss the case of a member in which her veterinary board made an irrational and unlawful ruling against her.

### **The Case History**

In 2015, Fido, a 6 year old male cross breed belonging to Miss X was presented to a large veterinary corporate for a dental examination.

The clinical records from this visit state: “Groomer noticed a few loose teeth in his mouth. Few incisors are loose due to periodontal disease and need extraction. L upper premolar also very loose but no tartar accumulation. Rest of teeth are quite good, slight tartar only. Will contact owner if extraction required. Owner

concerned re extractions that there will be gaps”. During the procedure the treating veterinarian contacted Miss X to inform her one incisor needed to be extracted and Miss X inquired if there were any alternatives to extraction. One tooth was removed with consent.

In April 2017, two years later, Miss X presented the same dog for another dental examination. Miss X claimed in her complaint that, after a thorough examination, she was informed that Fido needed to have three teeth removed and that she told the treating veterinarian that she did not want that many teeth removed. The veterinarian discussed getting a second opinion and alternatives to extractions as well as dental implants. Miss X accepted the veterinarian’s advice that the three teeth were not salvageable and booked Fido in for surgery.

Fido was admitted by the nurse. Miss X states she was informed Dr A would be operating on Fido. Miss X states she asked the receptionist to ask Dr A to speak with the second veterinarian before the surgery as she was already very concerned about the procedure. Miss X’s reaction to the initial estimate led the nurse to form the opinion that Ms X was actually concerned about the costs and not the number of teeth that required extraction. The nurse advised that the practice would call her if the costs of the procedure needed to increase.

The nurse vehemently denies that Miss X mentioned that only three teeth were coming out or that she was concerned about the number of extractions or that she had requested to get Dr A to talk to the second veterinarian. An admission form for the dental procedure had an estimate cost hand-written on it, with the note “Call if more”. This was signed by Miss X.

Section 7 of the admission form for this veterinary clinic which discusses the option of permission for “further treatment that is deemed necessary in the case where the owner is not contactable” was not filled out by Miss X.

The clinical records for Fido's visit on this day state the reason for the procedure as "dental dog level 2". The history included notes of grade 3/5 dental disease. He was assessed as Ok for a General Anaesthetic.

Fido was anaesthetised. The procedure notes state: "4 upper and 3 lower incisors were all very mobile and extracted in addition to both upper PM1s and 109, 110, 209. No teeth needed the cutting drill as they were all very mobile, requiring almost no elevation. 4/0 Monosyn interrupted sutures were placed at some extraction sites. The remaining teeth were scaled and polished". Twelve teeth, in all, had been extracted.

Miss X called the practice at about 1pm and a discharge appointment was organised with Dr A for 6 pm. Miss X asked how many teeth were removed and raised her voice when told seven incisors had been removed. Miss X again requested to talk to Dr A. Dr A requested the receptionist call Miss X back and tell her she would explain everything in the discharge appointment.

Miss X and her mother attended the practice for the discharge appointment. Payment of the bill was requested, but Miss X wanted to speak to the vet before payment was made. Dr A informed Miss X that twelve teeth had been removed. Miss X was crying and shouting, wanting to know why the teeth had been removed. Dr A describes feeling threatened. Miss X stated she was upset and that she was hysterical because of the shock and pain that the dental removals must have caused Fido. Miss X left with Fido without making payment for the surgical procedure.

The next day, the superintendent veterinarian at the practice called Miss X. She was aware that Miss X was not happy with the service she had received, and had been verbally abusive towards staff and had not paid the outstanding account. The second veterinarian inquired about Fido's status and then inquired why the bill hadn't been paid. The phone call was abruptly terminated by Miss X.

Miss X then contacted the regional operations manager for the corporate, following up her concerns about the lack of consent for removal of nine additional teeth as well as the poor communication that she had encountered. This was followed by a formal complaint against Dr A to the Veterinary Board in that State.

The second veterinarian, who had given the preliminary clinical examination, added some detail to Fido's clinical records after the procedure. She recalled that Miss X seemed anxious about extractions and asked about dental implants. A second opinion from a dental specialist was also discussed. She provided an estimate for a level two dental as well as estimates which included wart removal and/or blood tests and stated she always advises owners of the fact that there may be additional findings on examination under anaesthesia than those on a dental examination where the animal is conscious. She also understood Fido would be booked in for the procedure with herself.

The practice supplied their dental pricing schedule. A level 2 dog dental is defined as "scale and polish with extractions that take under 20 minutes, i.e. one surgical extraction or several extractions using elevation only. A level four dental is defined as one where extractions take more than 40 minutes and definitely if 8 or more teeth are removed (unless all were incisors that could be removed without difficulty)".

In her response to the complaint made against her, Dr A pointed out that in corporate practice, the veterinarian is obliged to follow the corporate's practice rules and protocols, with each veterinarian having much less contact with owners. She stated that she was informed to only telephone Miss X if the cost of the dental procedure risked exceeding the price estimate that had been provided, which it did not. Dr A states she reviewed Fido's clinical records before the procedure.

In response to the Complaints Committee's particularisation that Dr A failed to obtain the owner's consent for the extent of dental surgery performed on Fido, Dr A felt Miss X consented to the extent of the dental procedure by signing the consent form for "dental"; that Dr A informed Miss X that multiple teeth needed removal and told her that during the procedure further extractions may be required; and that the nurse had told Miss X that it is never known how many teeth need extracting until an examination under anaesthetic is made.

Dr A felt that it is unrealistic and impractical to expect a veterinarian to stop a procedure whenever a decision needs to be taken, contact the owner and obtain new consent for the full extent of each step of the procedure. It was also submitted that Miss X had given informed consent for the procedure.

### **The Finding**

It was the opinion of the Complaints Committee that:

- i. Miss X signed a consent form for "dental" procedure and was under the impression from her previous visit with the second veterinarian that Fido required a "small" number of extractions. This was supported by her clinical records that state "a few incisors are loose due to dental disease and need extraction. Left upper premolar also very loose but no tartar accumulation. Rest of teeth quite good".
- ii. Section 7 of the consent form, providing instructions that would give consent for further treatment if Miss X was not contactable was not filled out by Miss X.
- iii. It remains disputed and unclear if Miss X informed the receptionist of the number of extractions she was expecting Fido to have, or if she was informed further extractions may be required after assessment under general anaesthetic. The receptionist formed an opinion, based only on Miss X declining additional tests and procedures, that it was only the cost that was of primary concern to Miss X and informed Dr A to only call Miss X if the cost was to exceed the specified amount.
- iv. Dr A should have been aware from the clinical notes that Miss X was expecting only a few extractions and that when the previous dental procedure was performed in 2015 Miss X was contacted to give consent for a single extraction. It was noted she had concerns about extractions. However Dr A did not have access to notes about the full extent of the second veterinarian's discussions during the clinical examination with Miss X, where further concern about multiple extractions were discussed. Despite practice protocols that may limit contact with clients, Dr A was the veterinarian in charge of Fido's care in April 2017 and was in a position to contact Miss X prior to or during the procedure.

v. Fido's dental procedure appears to have been performed to current standards, and there is no evidence that the twelve extractions were not indicated based on clinical findings. Appropriate analgesia was provided.

vi. According to the practice's provided dental pricing schedule a level four procedure was performed - the procedure took 45 minutes and more than 8 teeth (7 incisors, 2 premolars and 3 molar teeth) were extracted.

vii. Miss X was not invoiced for costs exceeding the estimate provided but the extent of dental extractions exceeded that associated with the estimate and the expectations of Miss X.

viii. Dr A demonstrated a lack of judgement or care in failing to contact Miss X after Fido was examined under anaesthetic and the greater extent of dental disease was diagnosed. Dr A had not previously discussed Fido's procedure with Miss X and should have been aware from clinical notes of Miss X's previous concerns about extractions. The second veterinarian's previous assessment was that the dental disease was not as severe and there was no definite indication of consent for treatment above the practice's scheduled level two dental procedure.

ix. The Board has previously published recommendations in their newsletter three years earlier that state that, where practical, the owner must be given the opportunity to provide consent for the extent of any dental treatment.

The Board made a decision to find Dr A guilty of unsatisfactory professional conduct. She received a caution, and a fine was imposed.

The board's findings against Dr A were incorrect for the following reasons:

1. There are no legally valid, written, codified, widely accepted standards of care in this jurisdiction that proscribe any of the findings that the board made against Dr A.
2. The findings were therefore fabricated by the board members in order to convict Dr A.
3. In any event, the findings of the Board are nothing more than the subjective personal views of the Board members based on naive idealism and spite rather than reality, and have no place in law. This board made the veterinarians responsible for the shortcomings of the corporate. This board is nothing less than a bunch of bullies.
4. The fact of the matter is that Dr A actions were perfectly reasonable given the circumstances and constraints (over which she has no control) of the environment in which she was practicing.

### **Discussion**

1. Corporate practice is primarily profit-driven, which leads to shortcuts in protocols and severe difficulties for the veterinarian practicing in such an environment. In this particular corporate, lay staff take over the functions of the veterinarians, so that veterinarians focus only on performing the most profitable aspects of veterinary care. But it is the veterinarian that "carries the can" when owners complain. It is a great arrangement for corporates: the corporate makes the profits and the

veterinarians carry the ethical liability.

2. There is a tendency, for some reason, for veterinarians to underplay the seriousness of dental disease. It should have been made clear, in no uncertain terms to Miss X that her dog had developed severe pathology, which had been causing chronic bacteremia and septicemia in her dog, with resultant chronic illness and organ damage. That the priority was to remove the cause of the pathology, not to save loose teeth, that in any event were a liability and of absolutely no value to the dog.

3. The VDA sees many cases in which failure to lay emphasis on dental priorities in very clear terms leads to owner misconceptions and unnecessary complaints.

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## **Mitigating The Risks of Sexual Harassment (Article 515)**

### How to Deal with Sexual Harassment in the Practice and Mitigating the Risk

Veterinary medicine is an equal opportunity profession. However, historical limitations on university admissions may result in older men working with younger ladies in the same practice. A number of our members have already experienced sexual harassment in veterinary facilities - both as victims and as alleged perpetrators.

Sexual harassment is unwelcome conduct, on the basis of gender, that affects a person's ability to do his or her job (or complete studies), including unwelcome sexual advances, verbal or physical conduct of a sexual nature, and requests for sexual favors. Although most claims of sexual harassment are made by females, there have been increasing charges of sexual harassment of males.

The healthcare industry is not exempt from sexual harassment; in fact, over 50% of female nurses, physicians, and students report experiencing sexual harassment.

Equally, this experience has spread into the veterinary professional workplace, where such behavior is not confined to employers and members of staff, but may also include clients of the practice. The VDA has been approached on a number of occasions for assistance in dealing with certain incidents.

How is sexual harassment defined?

The Supreme Court of The USA has outlined two different types of sexual harassment covered by Title VII of the Civil Rights Act in the USA

- **Quid pro quo:** Job security, advancement, or benefits are tied to sexual favors. This type includes unwelcome sexual advances, requests for sexual favors, or physical or verbal conduct of a sexual nature that are tied directly or implicitly to employment.
- **Hostile work environment:** Inappropriate behavior is so pervasive and severe that it permeates the workplace and interferes with the individual's ability to carry out the duties of the job.

Types of sexual harassment

Verbal (spoken or written)

Offensive teasing, joking, questioning. Suggestive remarks or sounds. Terms of endearment, such as "honey," "sweetie," or "hunk." Requests for sexual favors. Whistling, catcalls. Inappropriate emails, letters, memos, telephone calls. Comments about appearance, clothing. Threats. Spreading rumors about a person's personal or sexual life.

Non-verbal

Sexual gestures (licking, making hand signals, eating in provocative manner). Winking. Leering/Looking inappropriately at a person's body or body parts. Blocking a person's path, following the person. Giving personal gifts.

## Visual

Sexual exposure, including “flashing” or “mooning.” Offensive pictures, pornography, posters, pin-ups. Offensive screensavers. Email with offensive jokes, cartoons, and pictures.

## Physical

Touching, brushing against the body, patting, stroking, hugging, kissing, fondling. Massaging the neck or shoulders, and rape.

## Psychological

Repeated undesired social invitations, proposals, or contact resulting in anxiety and stress.

## Elements of the complaint process

If you are a victim of sexual harassment, please note that for a complaint to succeed, the evidence must be unambiguous. In order to forestall unwanted behavior, and to prevent perpetrators from claiming that you were a willing participant, it is necessary to be well versed in the following practical actions, which can be used to support your claim that the accused’s conduct was unwanted/unsolicited:

### 1: Say “No”

Consensual behavior is not sexual harassment, so you must be very clear about saying “No.”

- If asked for a date, “I already have plans” or “I have a girlfriend” or “I don’t like workplace romances” is not the same as “No, I don’t want to date.”
- Laughing uncomfortably at a dirty joke is not the same as saying “I don’t want to hear dirty jokes. They make me uncomfortable.”
- Ignoring pornographic pictures is not the same as saying, “I find those pictures offensive and would like them removed.”
- NOTE: If a client sexually harasses a veterinary practitioner or assistant, the matter should be dealt with directly: “Your behavior is inappropriate and not acceptable.”

### 2: Document the incident

You should document every incident of sexual harassment, including the date, time, description, and witnesses.

- Note: Just because a fellow employee says, “You’re on your own. I’m not going to say anything about this” does not alter the fact that the person was a witness and should be listed as such. Should the issue go to court, the person may not be willing to commit perjury, and will possibly corroborate the claim made against the accused.
- This documentation should NOT be done on an employer-owned computer or through emails over an employer network because there is no presumption of privacy.
- Documentation may contain photos of offensive material, such as offensive cartoons on a bulletin board, or copies of offensive letters or other forms of communication.

### 3: Report

Following employment procedures, you should make a formal complaint to the appropriate supervisor in writing, outlining exactly what has occurred and providing evidence or supporting statement of witnesses, as appropriate. Subsequently, you should follow the same procedure if further harassment occurs.

### 4: Create written record

The supervisor should create a written record that contains copies of all documents. You should document the results of filing your complaint, including any actions the supervisor has taken to resolve the issue and the response of those who had engaged in harassment. All letters, emails, and summaries of telephone conversations or meetings should be included. Should legal action be necessary, a careful written record may be critically important.

### 5: Seek support

You should seek support through friends, family, and co-workers. In some cases, you may benefit from assertiveness training or counseling. Those who seek professional counseling to deal with harassment should not sign a release of medical records because, if the issue goes to court, attorneys may try to use the record of treatment as an indication the person bringing charges is mentally unstable.

Dr. Colleen Cullen, a licensed clinical psychologist, notes that for victims of sexual harassment the most common diagnoses are depression, anxiety, and even post-traumatic stress disorder (PTSD) - so seeking professional help is vital.

"Sometimes sexual harassment registers as a trauma, and it's difficult for the [patient] to deal with it, so what literally happens is the body starts to become overwhelmed," says Dr. Nekeshia Hammond, another licensed psychologist. "We call it somatizing: the mental health becomes so overwhelming one can't process it to the point of saying 'I have been traumatized' or 'I am depressed.' Essentially, it's a kind of denial that when experienced for a long state can turn into physical symptoms."

These physical symptoms can manifest as muscle aches, headaches, or even chronic physical health problems such as high blood pressure and blood sugar problems.

For the veterinary practice principal or manager, Richard Cahill's article on "How to Mitigate Risks of Sexual Harassment Allegations in Healthcare" brings up several points which we feel are valuable. His article notes the following:

#### "Repercussions of Harassment Claims"

Shortly after complaints are filed, costly and potentially embarrassing investigations are often conducted by law enforcement, human resources departments, and administrative agencies. Depending on the nature and scope of the findings, serious adverse consequences and often irreparable harm to a person's reputation may follow, including:

Criminal prosecution.

Civil litigation with the potential for substantial damages.

Licensing board actions that may impose limitations on an individual's continued privilege to pursue his or her profession.

#### Adopt and Enforce Zero Tolerance

Given the risks, heightened awareness, and increased scrutiny, healthcare practitioners and facilities are strongly encouraged to develop and consistently enforce a zero-tolerance policy. Protocols must be written, periodically reviewed, and updated as necessary, detailing:

The types of conduct that will not be tolerated, regardless of the identity of the alleged perpetrator.

- \* A clear methodology for reporting claimed instances of wrongdoing.
- \* The process to be followed in investigating complaints, and rules that should be observed to help ensure that confidentiality and due process are appropriately protected.
- \* Documentation to be completed and maintained.
- \* The range of sanctions, up to and including termination, for both employees and clients, should the allegations ultimately be determined to be true.

Staff should receive proper training as part of the on-boarding process of each new employee and on a regular basis thereafter. Practices should develop and retain attendance sign-in sheets of such training in the regular course of business to demonstrate, in the event of a subsequent problem, the good faith, and due diligence as continuing efforts of the clinic, provider or facility to comply with [the] requirements of [governing authorities]."

Richard Cahill suggests that healthcare professionals, such as veterinarians and veterinary clinics, institute a process of publishing their zero-tolerance policy towards harassment. This can be achieved through notices and documentation, and by including wording in professional employment contracts, and possibly even third-party vendor agreements, website notices, and office signage.

#### "Be Sure You're Covered"

According to Richard Cahill's comments, veterinary practitioners are encouraged to consult with their personal or corporate attorney to understand the potential financial risks of claims involving allegations of sexual harassment or misconduct. They should then confer with their insurance agent or broker to determine proactively what coverages might be available to protect them in the event of such a claim.

Be aware that claims of inappropriate sexual behavior against a veterinarian or other licensed animal health practitioner may result in administrative proceedings by a state/provincial medical board or other disciplinary body. In the USA, insurance endorsements are widely available as part of medical professional liability policies to pay legal defense costs in the event of an investigation or subsequent disciplinary hearing.

The VDA recommends:

A zero tolerance policy towards sexual harassment in the workplace. Ensuring that staff members are educated about sexual harassment will assist in reducing the risk of such events occurring.

Published 2018-07-26

## **What Is Your Opinion? Veterinarian In The UK Struck Off (Article 514)**

The VDA would like to hear your opinions about the article below. What should the criteria be for temporarily stopping a vet from treating animals? What should the criteria be for permanently preventing a vet from treating animals?

There is a universal legal principle that requires any sentence to be the least severe that it can be in order to achieve the aim. Anything above this is considered to be vindictive, which has no place in any modern legal system.

\*\* Suffolk vet struck off for dishonesty, clinical failings and poor record keeping.

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Written by Arlo Guthrie (<https://www.vetsurgeon.org/members/Editor/default.aspx>) at VetSurgeon News on 24 May 2018 9:40 AM

Suffolk-based Dr Horia Elefterescu has been struck off by the RCVS Disciplinary Committee for dishonesty, clinical failings and poor record keeping. The Committee heard seven charges against Dr Elefterescu. The charges were:

1. In September 2015, in relation to a male cat called Kitty Brown, he failed to undertake an adequate examination prior to surgery and that he undertook an unnecessary laparotomy.
2. In February 2016, in relation to a male cat called Storm Page, he failed to undertake an adequate clinical examination prior to anaesthesia and made dishonest or misleading entries in the clinical records stating that he had undertaken a full clinical examination.
3. In February 2016, in relation to a male cat called Sampson Page, he failed to undertake an adequate clinical examination prior to anaesthesia and made dishonest or misleading entries to the effect that he had undertaken a full clinical examination.
4. In February 2016, in relation to Tibial Plateau Levelling Osteotomy (TPLO) surgery performed on a female Bichon Frise called Lucy Allen, he failed to undertake adequate examinations into the possibility of a cranial cruciate ligament rupture or failed to record the same; performed the TPLO surgery with insufficient clinical justification; performed the surgery inadequately; failed to take steps to rectify inadequate surgery having obtained post-operative radiographs; made dishonest/ misleading entries into clinical records; and, in a letter to the RCVS on 7 August 2016, made dishonest and misleading comments.
5. In February 2016, in relation to a male cat called Kipper Morley, he failed to take and record a sufficiently detailed history; failed to undertake an adequate clinical examination; that, having noted the possibility that Kipper might have anaemia, he failed to make arrangements for urgent investigations to be undertaken; that, having decided to administer intravenous fluids to Kipper, failed to make arrangements urgently; and failed to keep clear, accurate and detailed clinical records.

6. Between September 2015 and February 2016, he failed to keep clear, accurate clinical records in relation to seven cases.

7. In February 2016, in relation to a male cat named Chino Biggs, he failed to undertake adequate clinical examination and dishonestly made entries in the clinical records saying that he had undertaken aspects of an examination when he had not done so.

Having heard evidence from complainants, witnesses (including expert witnesses) and the respondent himself the Committee determined that the facts of all the charges were proven – with the exception of part of Charge 6 regarding his keeping inadequate clinical records in relation to a male cat called Dax Parham.

The Committee then went on to consider whether the proven charges, both individually and cumulatively, amounted to serious professional misconduct. In relation to the first and fifth charges the Committee found that, while Dr Elefterescu's conduct fell below what was expected of a professional veterinary surgeon – they did not constitute serious professional conduct.

In relation to the parts of the second, third, fourth, sixth and seventh charges that were found proven, the Committee determined that each constituted serious professional misconduct.

In relation to these determinations, Ian Arundale, chairing the Committee and speaking on its behalf, said: "The respondent's clinical failures... are very serious, amounting as they do to failures in the basics of animal care and resulting in suffering to the animal. They involve widespread breaches of the Code, including not only the obligation in relation to animal health and welfare... but also the specific obligations of the Code in relation to record keeping.

"In addition to his clinical and record keeping failures the respondent has been found to have acted dishonestly. This dishonesty would have impacted upon professional colleagues and any owner who viewed the records. It has the potential to undermine public confidence in the profession. The respondent was also dishonest in a letter written in August 2017 to his regulator."

In considering Dr Elefterescu's sanction, the Committee took into account a number of aggravating and mitigating factors.

Aggravating factors included actual and risk of injury to animals, dishonesty, recklessness, breach of client trust, repeated misconduct and limited insight into his failings.

In mitigation the Committee considered that, at the time of the misconduct, the respondent was new to the UK, he had language difficulties which resulted in communication problems, that he was unfamiliar with UK veterinary computer systems and procedures, that he is of good character, that he has taken steps to avoid a repetition of his misconduct and that there have been no subsequent complaints since the dates of the matters in the charges.

However, the Committee found that, in light of the seriousness of the charges found against him, the only sufficient sanction was to direct the Registrar to remove Dr Elefterescu's name from the Register.

Mr Arundale, commenting on the sanction, said: "The respondent's misconduct involved very serious departures from the professional standards set out in the RCVS Code.... In particular, the unnecessary surgery (both the initial and revision) carried out on Lucy Allen constituted very serious harm to an animal. The Committee considers that the respondent's lack of insight into his failings, and his wholly unjustified confidence in his abilities constitute an ongoing risk to animal welfare. In these circumstances, the Committee has determined that the only sanction which is appropriate and proportionate, in order to ensure the welfare of animals, the public interest and the reputation of the profession, is to direct the respondent's removal from the Register."

Dr Elefterescu has 28 days in which he can lodge an appeal with the Privy Council regarding the Disciplinary Committee's decision.

In The VDA's Opinion

"During mitigation the committee considered that, at the time of the misconduct, the respondent was new to the UK, he had language difficulties which resulted in communication problems, that he was unfamiliar with UK veterinary computer systems and procedures, that he is of good character, that he has taken steps to avoid a repetition of his misconduct and that there have been no subsequent complaints since the dates of the matters in the charges.

However, the committee found that, in light of the seriousness of the charges found against him, the only sufficient sanction was to direct the Registrar to remove Dr Elefterescu's name from the Register."

In the VDA's view, the only justification for the permanent removal of a vet's name from the register is if it is proven beyond reasonable doubt that the veterinarian is permanently unable to meet the required minimum standards of practice. If this cannot be proven, then there are a number of lesser penalties that would adequately serve the purpose of protecting animals and owners.

Given that the DC found that this veterinarian had not re-offended since the complaints had been investigated and had indeed been meeting current standards of practice, there is no justification for striking his name from the register.

In the VDA's opinion, the most appropriate sanction would have been to order that this veterinarian work for a period under the supervision of a suitable experienced vet or group of vets, in order to give this vet the opportunity to become sufficiently familiar with the English language, to UK veterinary practice, including UK veterinary computer systems and procedures, appropriate clinical decision-making, and not least of all, what the required minimum standards of practice in the UK are.

Do you agree?

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## **Confidentiality (Article 513)**

Information security breaches in the modern business environment may occur through various means, including theft, deliberate attacks on electronic systems, unauthorised use of personal information of data subjects by an employee, accidental loss or even equipment failure. South Africa is one of many countries throughout the world who have recently introduced an Act to control such breaches, entitled POPI, or the Protection of Personal Information Act.

Although POPI does not specify the technical requirements that must be met, it will be the responsibility of each responsible party in every business or organization, whether large or small, to ensure that they have the necessary and appropriate technical and organizational measures in place to protect data.

In the United States, businesses such as Veterinary practices are equally expected to control and keep safe the information of the private citizens who make use of their services. According to DVM 360: *“The veterinary hospital has to maintain vigilance in the protection of two separate areas of personal privacy rights.*

*First, we need to strictly guard the personal and financial information of the pet or livestock owner. This includes a number of categories of private information, including bank-account numbers, credit-card information, addresses, credit history and more.*

*Second, we have to be certain that information we possess regarding the health and care of the client's property is disseminated only to individuals and businesses that are entitled to know that information.”*

*In the event that a responsible party's data security safeguards are compromised and unauthorised access to personal information ensues, responsible parties will be required to notify the Information Regulator in their country or state as well as the affected data subjects as soon as is reasonably possible after the discovery of the compromise. The notice will also have to contain sufficient information for data subjects to adequately protect themselves against any potential consequences of the compromise in data security.”*

*In the United Kingdom, the RCVS advises the following: “In circumstances where the client has not given permission for disclosure and the veterinary surgeon or veterinary nurse considers that animal welfare or the public interest is compromised, client confidentiality may be breached and appropriate information reported to the relevant authorities. Some examples may include situations where an animal shows signs of abuse; where a dangerous dog poses a risk to safety; where child or domestic abuse is suspected; where there is some other significant threat to public health or safety or to the health or safety of an individual; or where the information is likely to help in the prevention, detection or prosecution of a crime.*

- 1. If a client refuses to consent, or seeking consent would be likely to undermine the purpose of the disclosure, the veterinary surgeon or veterinary nurse will have to decide whether the disclosure can be justified. Generally the decision should be based on personal knowledge rather than third-party (hearsay) information, where there may be simply a suspicion that somebody has acted unlawfully. The more animal welfare or the public interest is compromised, the more prepared a veterinary surgeon or veterinary nurse should be to release information to the relevant authority.*
- 2. Each case should be determined on the particular circumstances. If there is any doubt about whether disclosure without consent is justified, the issues should be discussed with an experienced colleague in the practice before the information is released.*
- 3. Veterinary nurses employed by a veterinary surgeon or practice should discuss the issues with a senior veterinary surgeon in the practice before breaching client confidentiality.*
- 4. Where a decision is made to release confidential information, veterinary surgeons or veterinary nurses should be prepared to justify their decision and any action taken. They should ensure that their decision making process, including any discussions with the client or colleagues, is comprehensively documented.”*

It is now even more important than ever before to train all staff not to give out ANY information to anyone and direct any enquiry to the vet on duty. The VDA recommends that you do not reply, or simply say, “I am sorry I am not allowed to give out that information”.

The response above applies to numerous and varied scenarios such as the following:

Scenario A:

A couple are waiting in the practice for their upcoming appointment, when an owner rushes in with their animal in an emergency situation, the couple turn to one of the nearest staff members and ask if the animal is ok?

Scenario B:

A woman in the waiting room looks up from her phone just in time to see what she believes is her husband’s mistress leaving the practice. She is upset by this and demands to know if her husband’s mistress is a client of the veterinarian.

Scenario C:

A community watch text group informs all members of the horrific details of a dog fight. The members on the community chat with each other on their forum, then question the staff of the local veterinary practice as to what the details are and who may be liable for the bills. Even though these questions occur via text message, it is still important to maintain confidentiality, especially as this could be a legal matter.

Scenario D:

There is a rumour of a puppy mill in the area, and gossip starts in the waiting room as to who could be behind it. The owner of the puppy mill had in fact been arrested the day before at the same veterinary practice, a the time of bringing in a new litter of puppies in for vaccinations.

If you have any questions regarding the regulation of confidentiality in the veterinary world, please contact us at [info@vetdefenceco.com](mailto:info@vetdefenceco.com)

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## **Burnout (Article 512)**

High achievers and Type A personalities, such as many of those in the medical and veterinary field, are often known to ignore or even try to normalize the fact that they are working excessively long hours with heavy work-loads, while at the same time putting a great deal of pressure on themselves to excel. Burnout by its nature is an insidious affliction and doesn't just happen suddenly.

It creeps up on us slowly over time, which makes it much harder to recognize and prevent.

When in the midst of burnout, you are no longer able to function efficiently on any level.

Take some time to honestly assess the amount of stress in your life and find ways to reduce it before it becomes too late.

However, Burnout isn't like having a cold; it doesn't go away after a few weeks - unless you make some changes in your life and commit to a basic set of "Daily Well-being Rules".

Being Stressed All Of The Time Leads To Physical And Emotional Exhaustion

### **Chronic Fatigue**

In the early stages, you may feel a lack energy and feel tired most days. In the latter stages, you feel physically and emotionally exhausted, drained, and depleted, and you may feel a sense of dread for what lies ahead on any given day.

### **Insomnia**

In the early stages, you may have trouble falling asleep or staying asleep one or two nights a week. In the latter stages, insomnia may turn into a persistent, nightly ordeal - as exhausted as you are, you can't sleep.

### **Forgetfulness/Impaired Concentration and Attention**

Lack of focus and mild forgetfulness are early signs. Later, the problems may get to the point where you can't get your work done and everything begins to pile up.

### **Physical Symptoms**

Physical symptoms may include chest pain, heart palpitations, shortness of breath, gastrointestinal pain, dizziness, fainting, and/or headaches (all of which should be medically assessed).

### **Increased Episodes of Illness**

Because your body is depleted, your immune system becomes weakened, making you more vulnerable to infections, colds, 'flu, and other immune-related medical problems.

### **Loss Of Appetite**

In the early stages, you may not feel hungry and may skip a few meals. In the latter stages, you may lose your appetite all together and begin to lose a significant amount of weight.

### **Anxiety**

Early on, you may experience mild symptoms of tension, worry, and edginess. As you move closer to burnout, the anxiety may become so serious that it interferes in your ability to work productively and may cause problems in your personal life.

### **Depression**

In the early stages, you may feel mildly sad, occasionally hopeless, and you may experience feelings of guilt and worthlessness as a result. At its worst, you may feel trapped, severely depressed, and think the world would be better off without you. (If your depression has reached this point, you should seek professional help immediately and understand that there is no shame in doing so, as this happens to most people at one or more stages of the lives).

### **Anger**

At first, this may present as interpersonal tension and irritability. In the latter stages, this may turn into angry outbursts and serious arguments at home and in the workplace. (If anger gets to the point where it turns to thoughts or acts of violence toward family or coworkers, seek immediate professional assistance.)

### **Cynicism And Detachment**

#### **Loss of enjoyment**

At first, loss of enjoyment may seem very mild, such as not wanting to go to work or being eager to leave. Without intervention, loss of enjoyment may extend to all areas of your life, including the time you spend with family and friends. At work, you may try to avoid projects and figure out ways to escape work all together.

#### **Pessimism**

At first, this may present itself as negative self-talk and/or moving from a glass half-full to a glass half-empty attitude. At its worst, this may move beyond how you feel about yourself and extend to trust issues with coworkers and family members and a feeling that you can't count on anyone.

#### **Isolation**

In the early stages, this may seem like mild resistance to socializing (i.e., not wanting to go out to lunch; closing your door occasionally to keep others out). In the latter stages, you may become angry when someone speaks to you, or you may come in early or leave late to avoid interactions.

### **Detachment**

Detachment is a general sense of feeling disconnected from others or from your environment. It can take the form of the isolative behaviors described above, and result in removing yourself emotionally and physically from your job and other responsibilities. You may call in sick often, stop returning calls and emails, or regularly come in late.

### **Feelings Of Ineffectiveness And Lack Of Accomplishment**

#### **Feelings Of Apathy And Hopelessness**

This is like what is described in the depression and pessimism sections of this article. It presents as an overall feeling that nothing is going right or nothing matters. As the symptoms worsen, these feelings may become immobilizing, making everything seem pointless.

#### **Increased Irritability**

Irritability often stems from feeling ineffective, unimportant, useless, and an increasing sense that you're not able to do things as efficiently or effectively as you once did. In the early stages, this can interfere in personal and professional relationships. At its worst, it can destroy relationships and careers.

#### **Lack of productivity and poor performance**

Despite long hours, chronic stress prevents you from being as productive as you once were, which often results in incomplete projects and an ever-growing to-do list. At times, it seems that as hard as you try, you can't climb out from under the pile

#### **Burnout Relief And Prevention Tips**

Make these Daily Wellbeing Rules a part of your daily routine and commit to them in order to feel relief from burnout. Firstly, get enough sleep at night (6-8 hours) as well as eating nourishing food throughout the day. Drinking enough water (8 glasses is generally recommended) in addition to getting enough exercise (which is often overlooked, but important). Make a rule of going for a walk for 15 minutes every day to get into a healthy habit and try to work your way up to 30 minutes a day.

Practice being mindful of the thoughts and feelings you experience in a day; try to replace the negative thoughts with more positive ones. Make the time to relax- or do all of the above all at once with a Yoga or meditation session.

Although this may sound obvious, this is one of the most overlooked tips: Setting a moment aside to remove or resolve the issues that make you stressed whenever possible, like resolving work conflicts. It

is recommended that you try to solve minor annoyances or things that could be solved quickly first, as this will bring greater relief as you tick the items off your grievance list.

For example; taking a few minutes to move the corner table that you are constantly stubbing your toe on to the other side of the room. Finding small ways of decreasing the stress and the negative things happening to you and around you is a great place to start reducing your feelings of helplessness and stress.

Should you need professional counselling or have any issues or concerns where you need advice, please contact the VDA by email at [info@vetdefenceco.com](mailto:info@vetdefenceco.com)

This article received input from Kylie Skews, a new member of the VDA team. Kylie has a BA Psychology degree, a BA (Hons) Psychology degree and she is currently studying a Masters degree in business (MBA). This unique knowledge skill set offers her the ability to advise and assist the professional on issues relating to mental well being, emotional health and coping mechanisms. Her expertise is available to all VDA members. Please feel free to contact her on [kyliesmit@vetdefenceco.com](mailto:kyliesmit@vetdefenceco.com)

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## **Things You Should Learn About In Veterinary School - Part Two (Article 511)**

Last week we began the topic of things that should be taught in veterinary school, but never are. Here are some other important subjects that we believe should be introduced in order to support the veterinarian in practice.

### **Communication Course**

A communication course would go a long way in assisting veterinarians with interactions between themselves and animal owners, co-workers in the practice, and suppliers. By being able to successfully communicate in the workplace, a veterinarian can often avoid facing a situation where an animal owner reports the vet to the veterinary board.

Another combination of communication and psychology that a veterinarian should be taught is how to deliver bad news to animal owners. Jessica Stroupe, DVM, wrote in her article that “Many recent veterinary graduates may walk into work one morning to find the patient they have hospitalized for days, hoping for a cure, has lost their battle with their disease. Your hands clam up and you get a knot in your throat, not only at the thought of losing your patient, which is bad enough, but now you have to deliver the news to Mrs. Smith yourself. This is new territory, and it’s hard to say how the client will react. With more and more experience with these conversations (not that you want to have them often), you learn what helps and what doesn’t. You learn how to read your clients and express empathy more effectively. You also learn to remain calm, professional, and understanding when you talk to a client whose immediate reaction is anger.” If veterinary students were to learn techniques on how to deliver bad news to animal owners while they are still studying it would greatly reduce later stress and provide some confidence to the veterinarian and, at the same time, it would be ideal if the veterinarian could learn tips on how to defensively deliver bad news to owners, without opening themselves up to liability or legal action from the owner.

During their practicing life veterinarians will inevitably encounter a variety of situations in which they would need to stand up for themselves. From the breeder who only wants half the dose of a vaccine given to their small animal because they believe it is too much for a small dog, to an animal owner who wants a prescription medication without having to bring in their animal for a check-up, to having to address the fact that money has been going missing from the cash register.

Many times the animal owner will plead with the veterinarian to follow a \$1 000 course of recommended treatment for their animal, but tell the veterinarian that they only have a budget of \$50 - which then leaves the veterinarian scratching around for a MacGyver-type solution to the problem, while feeling stressed and somewhat manipulated (whether intentionally or unintentionally) out of earning fair payment for their work.

## **Owning And Managing A Veterinary Practice**

Vet students are often coached by their professors that owning their own practice is the foremost goal to achieve, so as to afford to pay off their debts and student loans, yet the majority of veterinarians lack any basic business or management knowledge and are not taught any of this in school. Many of the pitfalls vets face could be avoided or mitigated with a short course in business management.

## **Record-Keeping and Consent Forms**

There is also much variability within veterinary practices in documentation of records and consent forms. Many vets only learn by the clinicians they work with or at their first job. They then tend to continue using the same procedure ( if any existed to begin with) throughout their practicing years. The main problem with this is that not using consent forms - or using cobbled-together ones full of legal holes and loopholes, leave the veterinarian open to lawsuits and complaints against them. Poor record-keeping only further buries the veterinarian in the hole that poor consent forms create as, once there is a complaint or lawsuit against the veterinarian, the lawyers prosecuting against the veterinarian will be able to easily find those loopholes and use them against the veterinarian. The veterinarian who has not kept proper records of the incident will not be able to offer up a good defence for themselves, and this could result in huge legal fees and mounting stress and strife for the veterinarian, sometimes ending with a loss of license to practice.

## **Costs and Estimates**

In a similar vein, veterinarians should be taught how to talk to clients about the cost of a procedure. Veterinarians often underestimate their worth and the worth of the service they provide, and will often undercharge for their work. Many also try to ingratiate themselves with their clients by offering discounts. Vets should be confident enough to clearly and concisely explain the estimated costs involved in the treatment of the animal. Then they should also be able to manage the animal owner, who may now be unhappy about paying the price estimated (but conversely wants everything possible done)! Another hazard is when a vet runs diagnostic tests on the client's animal and after doing so the client is dissatisfied to hear that the results are 'normal' - as the client now perceives the process as a waste of time and a money-making exercise for the veterinarian and is therefore reluctant to pay for services rendered.

While it's important to be patient and professional with co-workers and animal owners, there are many times when it is necessary to stand up for yourself, and for your license to practice.

What other subjects do you wish had been taught in veterinary school? We would welcome your comments!

Write to us at [info@vetdefenceco.com](mailto:info@vetdefenceco.com).

## Things You Should Learn About In Veterinary School - Part One (Article 510)

After seven or so years of veterinary school, many feel that they now know all they need to know in order to be a successful veterinarian. The VDA has identified some things that we believe should be taught at veterinary school, but aren't, which would help the veterinary profession immensely in everyday practice as well as in their personal lives.

### Psychology and Mental Wellbeing Course

Of primary importance would be a course on human psychology. Practicing veterinarians are often under immense stress. They experience mental fatigue, burnout and some are eventually driven to suicide. One of the main causes of this is dealing with animal owners and is not necessarily caused by the animals being treated. In an ideal world, if owners could be removed from the situation entirely- the stress involved in veterinary practice could all but disappear. If veterinarians could understand human personality types and the various mental disorders each client or co-worker they encounter may be dealing with, veterinarians would be able to persevere and overcome all the various situations they encounter on a daily basis. It is said that one in four humans suffer from mental illness and it is likely that this ratio is higher in animal owners, given that animals are commonly needed and used by people as support or therapy in coping with their mental conditions (whether they are aware of this on a conscious or subconscious level). Sending veterinarians into private practice without a working understanding of human mental behavior is like asking a pig to fly.

In the same vein as human psychology is mental wellbeing and self-care. This is a vitally important thing for anyone in a high-stress environment to learn about. A veterinarian who is working long hours, dealing with mentally unbalanced clients every few weeks or so while trying to co-exist with other staff members in the practice, is already walking a tight wire over the precipice. Add to this, any kind of stress in their home environment and personal life would be all it might take to tip the veterinarian over the edge. Many veterinarians cannot cope with the demands of life and turn to drugs or alcohol in order to self-medicate. Some, finally, once no long term relief is found, conclude that suicide will finally relieve them of the stress mounting on them.

When people consider mental health, the first thought that usually occurs to them is of medication and long sessions on a psychologist's chair. This is, of course a valid option. However, many are unaware that there are a lot of seemingly simple, yet meaningful, ways in which they can practice good self-care. Things like making sure to stay hydrated and eat a healthy diet, having a hobby outside of work and home, as well as getting enough sleep, all play an essential role in overall well-being and the ability to cope with stress. Healthy life-balance habits are not generally spoken about or encouraged in veterinary school.

Jessica Stroupe, DVM (Leashes, Lariats, and Lipstick Blog) aptly writes that "There's a reason why compassion fatigue, depression, alcoholism, and even suicide is common in our profession. Our careers are stressful and many professionals haven't established healthy habits to handle that stress. We put so

much into our jobs that we forget to take care of ourselves, and if you haven't established healthy stress-handling habits before veterinary school, you're certainly not going to learn it there. My advice is to exercise, eat well, don't drink to excess, get plenty of sleep, and get a hobby outside of veterinary practice, for God's sake! That may seem impossible in this profession, but if you make time to prioritize your health, you'll be a better person and a better professional because of it."

To be continued in two weeks time .....

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## **What To Do When A Client Wants To Record Their Pets Examination (Article 509)**

“Doctor, may I record our consultation today?”

The question of whether or not clients should be allowed to record visits with their veterinarians is a pertinent one. With the ever-increasing global popularity of SmartPhones clients have a recording device right in their pockets, accessible within seconds. Veterinarians are starting to face the question from clients more frequently, whilst some veterinarians are interacting with clients who will be recording without asking permission, and without the knowledge of the veterinarian or their lay-staff.

This scenario poses several questions for and against allowing recording devices into the room. On the one hand, there are potential privacy and liability concerns. On the other hand, this could aid in better client recall and understanding of the condition of their animal. Even though there are some benefits to allowing recording to take place, the risks tend to outweigh them.

There is the potential for veterinarians and staff to be intimidated by recording devices, as well as the fact that the device may be disruptive. Moreover the problem of recordings being altered or manipulated or segments cherry-picked to bolster an inaccurate portrayal of the scenario to the viewer must also be taken into account. Another point is that these recordings can easily be posted online and this raises the issue of privacy for staff and clients as well as the veterinarian. It also may inhibit the flow of information between the client and the vet if the client has the perception that others may view the consultation.

In the news recently, there was a US case regarding a patient who accidentally recorded his colonoscopy, capturing several derogatory remarks from the anesthesiologist while he was under anesthesia. The patient sued for malpractice and was awarded \$500,000. This case, while it relates to the human medical profession, has raised the importance of addressing the issue in veterinary practices.

Modern Medicine Network published an article (What To Do When Patients Want To Record Their Doctor’s Visits) stating:

“If a patient records a visit without the doctor’s permission, that can result in a loss of trust, which is the basis of a strong physician-patient relationship. Only about a dozen states nationwide prohibit electronic recordings done without the explicit consent of all participants in the encounter. It is important to know the specific laws concerning recordings in the jurisdiction where you practice. Regardless, it is recommended that patients be advised unequivocally that digital recordings by handheld devices, such as smartphones, are prohibited on the premises in order to protect the privacy of other patients and staff in compliance with federal and state privacy laws.”

The article recommends the following actions (adapted for our veterinarian readers):

Post a notice clearly on your practice website advising the prohibition of recording devices.

Include this prohibition in the Informed Consent to Treatment form signed by the patient at the outset.

Have signage clearly visible in the reception area.

Suspected violations should be handled immediately. If this policy is violated, meet with the patient in a confidential setting to discuss the issue and reiterate the practice policy. Depending on the circumstances and the status of the patient's current stage of care, advise the patient that further violations may result in termination of the veterinarian-client relationship.

If patients ask to record the visit, encourage them instead to take notes or to have a trusted family member or friend join them for the office visit to help take notes, remember information, and ask questions.

Doctors can also encourage patients to be engaged in the conversation with "Ask Me 3," which promotes clear communication through these three main questions:

1. What is my (pet's) main problem?
2. What do I need to do?
3. Why is it important for me to do this?

Veterinarians should also ask patients to repeat the information shared, and then correct any misunderstandings.

#### Positive use of recording for Veterinary Practice

The VDA recommends that members install video recording equipment in their clinics. Again, it would be prudent to put up a sign accordingly in the waiting room and to include this in the consent form. Practices might wish to document the owner's signing of the consent form as well as any discussions that occurred at the time.

When phoning companies, one often hears the message "this call may be recorded for monitoring and training purposes". While we recommend that you do use your recordings for monitoring and training purposes, you should not preclude the option of using the recording for "defending myself against your frivolous, vexatious and groundless grievances, litigation and veterinary board complaints!" Which is the main reason for having the recording facilities. So a much simpler "this call may be recorded" covers all the possibilities.

#### Precautions

For our American and Canadian members, Modern Medicine Network's article states that "This additional documentation will become a part of the record and can be subsequently accessed by"...

“agencies responsible for healthcare oversight.” Which means the veterinary boards. “Law enforcement will also be able to secure a copy with a search warrant or other court order”.

For our South African, Australian and Hong Kong members, these would form part of your clinical records, which are your private and confidential property and over which owners have no rights whatsoever. Veterinary boards have grabbed the power to view your clinical notes and often base their prosecutions on these notes, despite the fact that these were never intended to be anything more than the private and confidential jottings of the vet who recorded them. The Boards are not yet entitled to video recordings. And the veterinary profession needs to fight hard to prevent them from ever doing so.

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## **Another veterinarian gets violated by the SAVC (Article 508)**

This is another case in which the South African Veterinary Council has failed to screen and dismiss a frivolous, vexatious and groundless case and is proceeding with an unlawful investigation and prosecution of a vet. This is not an isolated case, but one of a string of absurd persecutions being conducted by the SAVC. The veterinarian faces a protracted investigation and is in jeopardy of yet another unlawful conviction by a thoroughly compromised and incompetent SAVC. There could not be a more clear case in which the veterinarian concerned is having his basic human rights violated by the SAVC.

The case can be summarised as follows:

### **The Event**

Mr X presented his Pit Bull to Dr A with the complaint that the dog had a swelling under its chin. Dr A, an experienced veterinarian, could not see or feel any swelling and so offered conservative symptomatic treatment and asked Mr X to return if there was no improvement.

According to the owner there was an improvement – Mr X states in his affidavit of complaint that his dog got better and the (imaginary) swelling under the chin disappeared.

A week later, by Mr X's own version, his dog started coughing. But, also by his own admission, he did not present his dog to any veterinarian. He assumed that his dog was coughing "because of the cold weather".

A week after that, (being two weeks after seeing Dr A), Mr X rushed his dog to another veterinary clinic, where he was assisted by Dr B. Some tests were performed but Mr X's dog passed away. No post mortem was performed. The in-house blood tests - supposing that the results were valid - (there was no confirmation of these), allegedly showed lower albumin and protein, raised red blood cells, lower platelets, raised creatinine and lower ALKP.

### **The Complaint and Screening**

Mr X submitted a complaint to the SAVC.

The SAVC extracted the following sentence from Mr X's complaint, using this sentence as justification for prosecuting Dr A: "He alleges that you did not take blood samples while examining [the dog] which a reasonable veterinarian would have done under the similar circumstances".

One would have to imagine that the SAVC believes that extracting a sentence from the complaint satisfies the SAVC's obligations to conduct proper, fair, justifiable disciplinary proceedings. Nothing could be further from the truth. The first obligation that the SAVC has is to screen the complaint by

applying its mind to the complaint in isolation, to establish whether the complaint passes the various tests for legal validity. If not, the complaint must be dismissed and the accused veterinarian's rights not to be unlawfully placed on his or her defence must be respected.

In this case, it is not just unreasonable but completely absurd for the SAVC to decide that the reasonable veterinarian would perform blood tests on a dog that is presented for an imagined swelling, when the dog is perfectly healthy. The fact that it died two weeks later from some unknown and ostensibly unrelated cause has nothing to do with Dr A.

When the SAVC behaves in such a disgraceful fashion, it caused deep harm to the profession. Veterinarians who are treated like this by the SAVC, and veterinarians that become aware of such cases, lose all their confidence in themselves and in the integrity of the profession. If the SAVC is willing to persecute a veterinarian in this fashion, what hope does the veterinarian have when something happens that really puts them on their defence?

For the individual veterinarian who has to face months, and sometimes years, with 'a sword hanging over their head', not knowing whether the SAVC will convict them or not at the end, it is far easier to emigrate to another country. Some veterinarians sink into depression and despair, or just give up on veterinary science.

This is an unjust and untenable situation for the profession. Every veterinarian in this country will be standing by and wondering if and when their time will come to face charges that have been fabricated for no reason - other than the ignorance and spite of a client sending in a complaint, which has then been dealt with by the SAVC Investigating Committee without proper and balanced consideration for the accused veterinarian and his legal rights.

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## **The Quandaries of Confidentiality**

### **(Article 507)**

Client confidentiality is a tricky subject that creates many quandaries for members.

Let's start off by making it clear that when two veterinarians who are/have been involved with treating an animal, exchange information, this is not a breach of confidentiality. When two veterinarians share a patient and a client, they must generally act in the best interest of the patient and the owner. This requires that personal contact information be shared, but this should stop short of imparting personal information that is not directly relevant to the treatment.

Confidentiality must always be maintained with regard to the personal information of an owner when dealing with third parties who have no rights by law to information. You and your staff must not discuss one owner and patient with another owner, not even to tell them that this owner or patient comes to your practice. Whenever you have any authority or pseudo-authority asking for information about an owner or a patient, please tell them that you need to obtain advice from your professional association and that you will revert to them. Then contact the VDA and we will help you navigate the matter.

You can provide information to spouses and partners, but be very wary if one spouse or partner presents an animal for anything more than medical treatment. It happens all too often that spouses or partners split or separate, and one presents an animal for euthanasia to spite the other, but without telling the veterinarian that they do not have the consent of the other. Euthanasia consent forms are obligatory, but while this might shield you from prosecution, it is still rather distressing to find out later that the other was unaware that their animal had been euthanized. It's much more distressing when the other arrives at your practice threatening to lay criminal charges against you or to sue you for murdering 'their' animal - because unknown to you, the couple has had an acrimonious separation!

The issue of client confidentiality arising from client registration can be frustrating and hazardous. It often happens that one member of a family first presents an animal and then other members of the family subsequently present the same animal. In the case of partners and spouses, both names can be entered onto the same file, and one can contract with you on behalf of the other. Families really need to decide which member is going to present the animal each time, so that they do not put you in an awkward position. You can discuss private information between spouses (but be wary!), but not with other family members, friends or neighbors, even if they present the animal for treatment. In this case, you need to open lines of communication with the owner of the animal and not discuss confidential information with the person presenting the animal.

And you need to exercise caution when dispensing meds for the animal into the hands of a person who is not the owner. The higher the schedule, the greater the caution you need to exercise.

Legislation has been promulgated in most countries for the protection of personal information. These legislative acts create an onerous burden on all businesses to protect personal information according to strict rules.

Finally, some members are concerned that they might be breaching the rules on confidentiality when they provide personal information relating to a client to the VDA. The same privilege applies between the VDA and its members as applies between a lawyer and client. The best way to understand this is to think of the VDA as an extension of yourself and not as a third party.

The matter of client confidentiality can be difficult to understand in general, but even more difficult to apply to particular situations that arise in private practice. As usual, the rule is that when in doubt, contact the VDA for advice and guidance.

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## **A Costly Mistake (Article 506)**

Dr A is a long-standing, loyal member of the VDA. He employed a new veterinarian at his practice, Dr B. Dr B was not a new graduate but an experienced veterinarian. Dr B had previously been a member of the VDA but for some reason (that defies logic!) he terminated his membership - yet continued to practice.

Dr A should have known the risks involved in employing a non-VDA veterinarian. Non-VDA veterinarians do not have the lawful right to use the VDA's copyright intellectual property contained in our consent forms and other documents; and responding to complaints is like swimming a relay in separate pools – it is impossible to co-ordinate and the defence theme is substantially weakened.

Be that as it may, Dr B continued to work without the benefits of VDA membership and financial protection / insurance cover (in a country where this is offered to our members).

One day, Dr B was presented with a young dog by a very elderly client, Mrs X, for a routine spay. Everything seemed to run smoothly and the dog was released from hospital that afternoon.

However, the dog was rushed to a different veterinarian by a panicked owner when the dog was unable to urinate and was becoming lethargic.

Dr C took the little dog into theatre and when he opened her up, was shocked to discover that the dog's ureter had been tied off, instead of her uterus. Tying off the ureter falls below the minimum standard of practice and Mrs X was, naturally, very upset. Dr C contacted Dr A immediately to inform him of the incident and advise him that the dog would require further revision surgeries. Mrs X did not have the money to pay for this.

Without thinking carefully, and before contacting the VDA, Dr A admitted liability and undertook to pay compensation as well as for all the revision surgeries that the dog would require. It is a condition of all insurance contracts that the insured must notify the insurer and follow the insurer's instructions. No insurer will survive if the insured makes the decision to pay compensation without carefully considering all the facts and then simply expects the insurer to cough up. Admitting liability and negotiating a settlement without the insurer's knowledge is a common reason for insurers to refute the claim.

Dr A then contacted the VDA. We informed him that unfortunately, we could not assist Dr B as Dr B was not a VDA member. The VDA offered to assist Dr A in any way we could, but given that a professional is responsible for their conduct in their own right, Dr B would have to deal with the claim personally.

Spay surgery is a complicated abdominal surgery, but it is surgery that every practitioner should be familiar with and competent to perform. A ureter and a uterus bear no resemblance to each other.

Multiple surgical specialist revision runs into the tens of thousands of dollars – a very hard way to learn this lesson.

Most veterinarians are very well aware of the risks involved in practicing without insurance cover but some take the risk, just to try save a few hundred dollars.

Members are reminded that VDA membership (as well as insurance cover and financial protection in applicable countries) is personal and belongs to the individual veterinarian.

Members are also reminded of clause 9 of the “VDA Terms and Conditions of Membership” which reads:

“I will notify the VDA immediately of any claim or complaint arising against me or my practice and I will not communicate with the claimant, plaintiff or complainant or his or her legal representatives or anyone related to the claimant or plaintiff without the VDA’s knowledge and consent.”

We understand, when you are confronted with a problem and feeling under immense pressure from the animal owner, that it is difficult to step back and take a breathe and ask for help from the VDA. But in the end, you will eliminate the stress of dealing with an emotional owner on your own, and you will probably save yourself financially by contacting the VDA for guidance and to fulfill your obligations as a member of the Association.

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Published 2018-02-07

## **“Disagreeable” Conduct does not necessarily amount to “Professional Misconduct” (Article 505)**

In December 2017, an article was featured on the [www.vetsurgeon.org](http://www.vetsurgeon.org) website about a Northamptonshire-based veterinarian who had been found not guilty of serious professional misconduct after he had posted derogatory remarks about his employer on Facebook.

The article reports that the RCVS Disciplinary Committee heard two charges against Dr Gabor Nemes. The first being that he had posted comments on social media about his employer, Dr Mate Toth which were allegedly offensive and/or derogatory and/or inappropriate. The second charge was that Dr Nemes had posted these comments without having sufficient regard to maintaining their confidentiality and/or privacy.

It is recorded that Dr Nemes admitted that he had made the social media posts, but he argued that the comments were posted in private messages on a closed Facebook group consisting of professional and lay staff of Dr Toth’s practice.

The Committee found that the comments Dr Nemes had placed on social media were highly unprofessional and considered the offensive language used to be unreasonably personal against Dr Toth.

Dr Nemes’ offence contravened a number of the RCVS Code of Professional Conduct rules. The article on [www.vetsurgeon.com](http://www.vetsurgeon.com) mentions that, in particular, Paragraph 5.3 was contravened. It states: “Veterinary Surgeons and Veterinary Nurses should not speak or write disparagingly about another Veterinary Surgeon or Veterinary Nurse.”

It is reported that the Committee found that Dr Nemes had paid no regard to maintaining the confidentiality and/or privacy of his malicious and damaging entries to the chat.

The Committee considered the fact that the period of time that Dr Nemes was involved in making postings was about two weeks and that his postings followed his wife’s dismissal from employment (representing a breach of Dr Nemes’ resignation conditions), and that he was extremely stressed at the time.

Dr Nemes had pointed out that he had never anticipated that Dr Toth would see the Facebook Messenger conversation, and also that the relevant RCVS supporting guidance to the Code concerning good practice when using social media was only published after Dr Nemes’ social media posts had been made. This was noted by the Committee.

The article reports that Ian Green, Chair of the Committee, said in summing up: “The Committee carefully considered the circumstances surrounding the Facebook Messenger entries which the

Respondent posted from 13 November 2014. It noted that at the time he had handed in his resignation, morale at the practice was very low. The Facebook Messenger chat site had been started amongst the receptionist/animal carers. A perusal of the entries before the Respondent joined on 13 November 2014 demonstrates that morale was low among that group.

"... notwithstanding the nature of the remarks posted on the Facebook Messenger, which the Committee deplors, it has reached the conclusion that, whilst the Respondent's behaviour amounts to misconduct and falls short of the standards expected of a member of the veterinary profession, it does not amount to serious misconduct and does not fall far short.

"In the circumstances it has reached the unusual conclusion that, notwithstanding the Respondent's admission, the appropriate finding is that he is not guilty of disgraceful conduct in a professional respect." The VDA has been making the point for years that disagreeable conduct does not necessarily amount to professional misconduct. A point that many other boards around the world have never been able to grasp.

There have been significant changes in international case law recently which create an onus on boards to consider much more carefully and fairly whether a veterinarian has acted unprofessionally or not. These are principles that the VDA has been presenting to boards in South Africa, Australia, USA, Canada and Hong Kong – collectively - for the past 25 years, and it is only recently that case law has started catching up with the VDA's position. The principles are:

1. The rules of natural justice preclude a veterinary board from drawing on its own knowledge and experience in order to create a specific professional duty to fit the case under investigation. In other words, boards may not 'make it up' as they go.
2. In order to be valid, the Board's allegations must be based on a specific or particular professional duty which is explicitly stated in current statutory provisions or specific written professional conduct rules that are widely accepted by the profession, prescribing the appropriate conduct of a veterinarian.
3. Even when there is a specific, written current statutory provision or specific written rule of professional conduct prescribing the appropriate conduct of a veterinarian, it is a further requirement that the accused veterinarian understood that s/he was required to meet the specific provision or rule, and that they acted intentionally to breach the provision or rule.

Most Boards exhibit poor knowledge and skills regarding the disciplinary process, create unrealistic expectations and give misleading advice to pet owners regarding whether their complaint has sufficient merit to convict a vet of professional conduct. And the preliminary investigation committees and tribunal members in all our countries of operation do not, in the VDA's view, meet the minimum required standards for veterinarians entrusted with the power to administer disciplinary action.

It is necessary for as many veterinarians to join together and voice their objections collectively in order to bring about

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## **Saying Sorry.... Something you Shouldn't do! (Article 504)**

One of our Australian members was recently provided with a link to an article titled "The importance of saying sorry" by the Veterinary Council of New Zealand.

The VCNZ article advises veterinarians that saying sorry in a well-timed and authentic manner can nip complaints in the bud. It quotes words from songs by artists Elton John and Justin Bieber and contains quotes such as "the way a practitioner handles the situation at the outset can influence a patient's decision about what further action to take, and an appropriate apology may prevent the problem escalating into a complaint to HDC" taken from the New Zealand Medical Journal, written in 2009 by Marie Bismark.

The article lists the following reasons in suggestion of "Why is it hard to apologise?"

- Embarrassment and shame about letting the client down.
- Guilt about not meeting expectations.
- Apologies being seen as a sign of weakness or failure.
- Fear of recrimination and damage to professional reputation.
- Fear of admitting liability.
- Anger about what happened and loss of confidence in abilities.
- It's a difficult conversation to have."

The VDA has always advised our members NOT to say sorry.

Any veterinary board who promotes apologising is endangering the profession and is simply showing their ignorance, naivety and lack of understanding of veterinary law - and life in general.

An apology is an admission of guilt. There is no other way to look at it.

But, more importantly, in our experience apologies would be misplaced in the vast majority of cases. It takes intense analysis and often quite some time before guilt can actually be established. It is normal and natural for vets to feel disappointed or that they may have overlooked something whenever a treatment does not work out, leading them to feel compelled to blurt out an apology. However, after careful analysis, very few vets have actually and objectively made the error that they would have apologised for. So, the vast majority of vets would be apologising (admitting guilt) when this would be completely inappropriate because the veterinarian did not do anything wrong.

It has become common business etiquette and wisdom for staff of any shop, business or enterprise to use apologies when they are approached by an unhappy customer. Quite obviously, people are being trained to immediately apologise with the transparent notion that this will disarm the customer and even appease them. This is especially so in the USA, where it has become epidemic. On the contrary, most people find it extremely frustrating when trying to discuss something with a shop assistant, or person on the phone, to be met with an apology before the person even understands what it is that is being said. It sounds as though the words are being recited by rote and leaves the distinct impression that the person is not paying attention to what is being said, and/or is not actually interested in hearing what is being said - but the apologies keep coming thick and fast. Thus abused, apologies have now become largely meaningless.

The VDA therefore suggests that it is far more professional for a veterinarian to promise to an aggrieved owner that their grievance is taken seriously and that the veterinarian will get to the bottom of it and will revert to the owner, than to make empty apologies that lead nowhere and do not satisfy the owner's demand for real answers. Aggrieved owners would be suspicious of early apologies; opportunistic owners with bad intentions would relish the opportunity to use the apology as ammunition against the vet.

Apologizing could be considered a gesture of acknowledging fallibility and deserving of forgiveness. If the owner is in a noble mood, then your apology might be well received and you might well be forgiven — and respected for making the gesture.

However, if the owner is not so benevolent, the danger is that your apology might instead be purposely misconstrued and be used against you as an admission of guilt. Owners come in many different forms, unfortunately including those who may seek vengeance or retribution in the event that something happened to their animal.

The worst form of owner is the one who sees your apology as an opportunistic source of financial enrichment. They may use it to prove you were guilty of misconduct, and file a complaint with the veterinary board. Your apology also may be used against you by the client's attorney in a civil lawsuit.

Any legal action against you places you at risk of a conviction. Any action against you in which the event falls into the first three categories below places you at risk of an unfair conviction.

- mere adverse outcome
- mere oversight
- mere medical error     or
- professional misconduct or negligence.

It would not be appropriate to apologize for an event that fits the first three “mere” categories. And it could turn out to be a really bad idea to do so in the last two categories.

Convictions, especially when unfair, are particularly stressful and can easily lead to depression, mental health issues and suicide.

Furthermore, insurers would be mortified if you apologised to an owner, thereby admitting liability on behalf of the insurer, without the insurer being given the opportunity to evaluate the merits of the claim, and landing the insurer with having to pay a claim that they otherwise would have refuted once all the facts were known. In fact, all insurance policies contain wording that allow the insurer to refuse to settle a claim if the insured has admitted liability, thereby leaving the insured to deal with the claim!

Altogether, apologies are meaningless and dangerous for any profession.

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## **“Broken Windows for Vets (Article 503)**

During “second opinion” consultations the accepted norm is for the second-opinion veterinarian to contact the veterinarian first approached by the client to explain that they have taken over the treatment and to discuss the background and history of the case. However, many veterinarians are not following this norm, and it is creating an atmosphere of mistrust - and even intimidation. Some veterinarians fail to extend the courtesy of a phone call to the first veterinarian altogether.

Veterinarians appear to be afraid of communicating with each other. A reason for this apparent fear may be that some or other shortcoming may be detected by the other veterinarian and relayed to the pet owner - or even the board. In fact, there are some veterinarians who openly threaten their colleagues in this way.

Dr A wrote to the VDA on this subject, posing these questions: “Is this not a good opportunity for us to learn how to deal with each other in a courteous and professional manner for the better treatment of our patients? Would it not be better to discuss rather than ‘score points’ against each other?”

“To get a phone call from a receptionist to say ‘By the way, Mrs X brought in Fluffy and Dr found that it has ‘xyz’ diagnosis and asked that I inform you’ is crass, probably unethical and serves no useful purpose but to alienate colleagues from each other.”

The VDA agrees.

Some veterinarians have been known to badmouth one another to the client instead of supporting each other, or remaining circumspect about previous treatments. In fact, many pet owners are alert to the possibility of competition between neighboring practices and try to drive a wedge between the competing vets. It is up to the individual veterinarian to actively prevent this. This is best achieved by communicating more with each other.

It is obvious that, when you are presented with a ‘second opinion’ case, it would be beneficial to you as the second-opinion veterinarian, as well as to the patient and the client, to obtain as much information as possible so that the best outcome can be reached for all parties.

Dr A made the point that the manner in which colleagues treat each other may be related to the manner in which boards treat the profession. In other words, boards often behave in an intimidatory manner which gives the more aggressive veterinarian an opening to use the board as a weapon against their competition. The board is also a useful weapon for the complaining client to get treatment discounted or refunded or to vindictively deal with a veterinarian when a pet has an undesirable outcome. The position of most veterinary boards is that they are “consumer-oriented”, and that they represent the general public against the veterinarian, rather than being impartial and dispassionate leaders for the profession.

For example, certain boards have been known to telephone veterinarians to “discuss” alleged problems, which catches the veterinarian off-guard, often causing the veterinarian to incriminate him or herself, simply because they have not had time to examine the issue and collect their thoughts. This is unethical behavior and takes unfair advantage of the veterinarian thus entrapped.

A properly managed veterinary board ought to take proactive steps to encourage effective communications between vets, in order to decrease conflict.

The people who serve on veterinary boards ought to be emotionally intelligent, trained in ethics and legal matters, circumspect, and with a good measure of restraint. Another valuable asset for a veterinarian serving on boards is empathy. Empathy is defined as the ability to understand and share the feelings of another.

However, most boards appear to be fatally flawed and are staffed by people without genuine social conscience and lacking the necessary skills and features that make for justice and fairness. For the most part, the boards in the VDA’s 57 jurisdictions are not, and have never been, fit for purpose and the conversation needs to be about how the profession can change this.

#### The Broken Windows theory

The Broken Windows theory says that a building with a few broken windows has a tendency to invite vandals to break a few more windows, leading to squatting and destruction of the building (by lighting fires inside, for example). Or that, when there is litter on a pavement it accumulates, leading to bags of refuse being dumped, then old trolleys and mattresses, and ultimately, once the neighborhood has further deteriorated, the breaking-into of cars takes place.

This breakdown of common decency and ethics explains why seemingly civilized communities sometimes lower communal barriers leading to a lack of mutual regard and obligations of civility which ultimately leads to apathy and degradation.

The strategy that has been successfully and repeatedly used in correcting the “Broken Windows” issue is to make our communities “civil” again by addressing the problems when they are small. Repair the broken windows and further vandalism to buildings is less likely; pick up litter and car vandalism is less likely.

So, as Dr A suggests, if vets and practices can treat each other with respect and fairness, we may ultimately limit unfair prosecutions by regulators.

If vet practices can treat each other better this will improve the general conscience, ethics and moral values of the profession until the trickle-down effect is that veterinarians that serve on veterinary boards will be more empathetic, respectful and fair.

Keep cases objective

Be courteous to your colleagues

Don't play the blame game

Discuss and respect differences in point of view

Do not voice your opinion regarding the previous veterinarian's handling of the case to the client

Do not be guilty of supercession. Inform the previous veterinarian personally when dealing with a second-opinion case.

Remember that your words can cause major damage to a colleague's reputation. Treat your colleague the way you would like to be treated yourself.

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## **Full Deposits and Altering Consent Forms (Article 502)**

The VDA has recently dealt with a case where the client dropped off his dog and left – asking for the consent form to be emailed to him. He did not pay a deposit.

The pet owner drew a line through some of the clauses on the consent form and then took things a step further by writing his own terms at the bottom of the form, stating that the veterinarian was required to obtain his consent for any and every procedure. This behavior placed the veterinarian in an untenable position.

In such a situation, the VDA recommends that you do not treat the animal and that you refer the patient immediately.

If it is an emergency, then offer euthanasia or provide emergency treatment, which usually consists of pain relief, and then immediately refer.

It is vital to your legal protection that no pet owner makes alterations to the consent form, and that they pay a full deposit.

Another important aspect to remember is to never communicate with a third party - even if it is purportedly a family member. This is a breach of your client's right to confidentiality, and may have serious repercussions for you and your practice.

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The VDA has often written about the risks of not taking a full deposit on admission of an animal, but despite our cautions, there are still many VDA members who do not heed our advice and find themselves in more than a spot of bother as a result.

### **Full Deposits:**

If you do not take a full deposit, there are numerous risks and consequences.

**You are unlikely to get paid on every occasion.** There will be a good percentage of clients who will be tempted to duck the bill when it arrives, and you will have handed them this opportunity on a platter.

**You are opening yourself up to the possibility of being blackmailed by a client.** Clients do not want to pay substantial amounts of money for a pet that has died. The client will hurl venomous accusations at you to try and make you feel guilty and intimidated, in the hopes that you will write off their account for "killing" their pet. This is emotional and financial blackmail.

**The pet owner may lay a complaint with the Veterinary Board.** There are two dangers here: a) Many pet owners use boards as a free mechanism to test the merits of their claim so that they can lay a civil claim against you. b) Although some veterinary boards have a policy that they will not act on a complaint if the bill is unpaid, if the client does decide to pay the bill in order to lay the complaint, you still run the risk of the Board investigating and convicting you. Boards often feel the desire to show their public usefulness by searching for anomalies in a case in order to ensure a conviction. These anomalies may be completely unrelated to the original complaint. It makes no good sense to open yourself up to board investigation, simply because you allowed a client the opportunity to avoid payment when you did not request the full deposit upfront.

**Trying to collect large amounts of money from outstanding accounts is emotionally draining and time consuming.** The cost (in time and effort) is almost always far larger than the original bill.

There is, of course, the argument that because you are running a business, you may lose clients who can't or won't pay the full deposit, and it makes better financial sense to run the risk of small numbers of uncollectable debts, rather than lose more clients who cannot or will not pay the deposit. However, if they don't pay and then blackmail you, they are not clients - they are thieves who have stolen your time and expertise! And they are unlikely to come back! So, what have you lost, given the stress that these situations create?

#### **Altering the Consent form:**

Another major risk for veterinarians is when the client crosses out certain clauses on the consent form, or when the veterinarian/nurse/receptionist alters the form by writing on it after it has been signed by the client.

Consent is Common Law and is a veterinary board requirement. Written consent is the only way to prove that consent was given to you by the pet owner to treat their animal.

Your VDA-approved consent to treatment form *should never be altered* by the owner:

The consent form should be treated as a very valuable contract. It protects your reputation and your financial well being.

If the pet owner crosses out clauses, and you let them sign the altered document, then you have reduced your protections and weakened your defence.

The consent form should be stored carefully and never thrown away. Claims may arise many months or even years after the incident (as many as the term of prescription or the statute of limitations allows).

All information relevant to the consent form should be inserted prior to signing. This means that the client is agreeing to everything written on the form when he or she signs.

Making alterations to the consent form after the client signs it may invalidate the agreement or even possibly result in allegations of fraudulently altering the document.

All other information should be inserted into the clinical notes. The clinical parameters, such as the temperature do not belong in the margin of the consent form - these remarks must go into the clinical notes.

The VDA consent form wording (which is our intellectual property) provides our members with the greatest protection that the law provides.

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## **The Risks of Corporate Practice and the Importance of Communicating with your Client** **(Article 501)**

Corporate ownership of practices may have financial benefits, but there are consequent risks. One of the problems is that nurses and lay staff tend to take over non-income-producing functions such as admission and discharge. These tasks are delegated because they appear trivial and a waste of a qualified veterinarian's time, which ought to be used performing income-producing procedures, all in the name of making a profit.

Less veterinarian involvement with the owner equates to more room for miscommunications by under-qualified and overworked lay staff who talk to owners about matters that only the qualified veterinarians should be talking to them about. Owners get frustrated when the communication is less than adequate, and this is a recipe for a higher risk of complaints and litigation for the veterinarians.

Dr A works on selected days at a veterinary practice in the city where she lives. The veterinary practice is owned by a corporation. The day before Easter, the practice had booked in a dental. A nurse had told the owner, Mr X, (who happened to be a lawyer) that 3-4 teeth needed to be extracted from his six-year old dog. The nurse did not explain that a final decision could only be made while the dog was under anaesthetic and the teeth could be visualised better. Mr X signed the practice consent form and the nurse admitted the dog for the procedure. The first time that Dr A saw the dog was when it was presented to her under anaesthetic ready for the dental. Dr A did not see or meet Mr X and she did not have the opportunity to examine the animal in front of the owner. Dr A discovered that 12 teeth were loose and removed them. This was, in her opinion, in the dog's best interest.

The dog had been booked in as a "level B dental procedure". Each level relates to a pre-determined cost, and the veterinarian does whatever is required for the animal for that particular fixed cost. The level determines the charge and is not necessarily related to the extent of the work that was actually done. This is typical of corporate practice where attempts are made to streamline the system and prevent undercharging. They try to fit procedures into boxes that do not fit, with the intention of making more profit.

Being the day before Easter, it was a very busy day. The practice did not call Mr X at 1 pm as promised by the nurse. Dr A knew nothing of the arrangement to call Mr X. Mr X called the practice at 2 pm and was apparently rather irritable with the staff. He asked how many teeth had been extracted. This is a very important fact for pet owners who don't want a toothless dog and who don't understand the dangers of periodontal disease. The nurse checked the chart and told Mr X that 12 teeth had been removed. The nurse did not talk to or refer the call to Dr A.

Mr X was extremely angry. He stormed into the practice where he was presented with the bill to pay before his dog was brought out to him. Mr X bellowed at the nurse, then bellowed at Dr A, who came

out to meet him. He refused to listen to Dr A and would not even listen to Dr A's directions for the medication for his dog. Mr X took his dog, did not pay the account and stormed out. That meant the corporate made a loss and the veterinarian's reputation was damaged – all because no-one took the few minutes needed to warn the owner of the ramifications and the chance of variances in the outcome before the treatment took place.

Mr X wrote a letter of complaint to the practice. Dr A heard about the complaint, but practice management attempted to deal with it without her input. This was a bad idea – only the veterinarian cares enough about their personal professional reputation to deal with complaints seriously.

Seven to eight months later, the Please Explain Letter arrived from the veterinary board. The board addressed the letter to the practice who initially did not let Dr A know about it. Dr A and Dr B, the practice manager, were both named in the complaint. Mr X had apparently tried to get the practice to fire Dr A and when they did not, he wrote the complaint to the board. Dr A was never consulted by the practice and played no part in the negotiations leading up to the board complaint.

Dr A only joined the VDA after this case had occurred, so she was not covered for this incident. However, the VDA has offered to assist Dr A in writing to the board and requesting that they hold the case in abeyance so that the VDA can invite Mr X to participate in ADR.

Dr A was very grateful and will be informing the practice that she will be submitting her own response – independent of Dr B and the practice - to the veterinary board.

Dr A did the right thing by removing the number of teeth she did. Imagine if she had only removed three to four teeth and sent the dog home with nine rotten teeth in its jaw.

This case fell apart only because Dr A was not in control of the relationship and communication with the owner.

The VDA has often written about the fundamental importance of good communication skills. The level of communication plays a large role in the outcome of your defence.

“Things that didn't get said at the time, cannot be said after the event” and “Things that were badly said, cannot be ‘unsaid’ now”. We have been saying for the past 25 years that, if only our members had been taught to communicate better as part of their undergraduate course, our job would be a whole lot easier and fewer of our members would have been convicted of unprofessional conduct.

Unfortunately for Dr A, she never got to communicate with her client until she came face to face with him, when the damage had already been done.

We will keep you posted as to the outcome of this case.