THE TRINIDAD AND TOBAGO VETERINARY ASSOCIATION

CODE OF PROFESSIONAL CONDUCT FOR VETERINARY SURGEONS

TABLE OF CONTENTS

On March 17th 2016, the membership of the Trinidad and Tobago Veterinary Association (TTVA) agreed by unanimous decision to implement this Code of Professional Conduct. It was agreed that the regulations set out in this code shall govern the members of the TTVA, and should be used to guide and inform the members of the greater veterinary fraternity. The TTVA holds the health and welfare of veterinary patients as the priority of practicing veterinary surgeons, and commits to ensuring the highest degree of professionalism in dealing with veterinary clients, colleagues, and the society as a whole.

CODE OF PROFESSIONAL CONDUCT FOR VETERINARY SURGEONS OF THE TRINIDAD AND TOBAGO VETERINARY ASSOCIATION

The Trinidad and Tobago Veterinary Association (TTVA) Code of Professional Conduct was based on that of the Royal College of Veterinary Surgeons (RCVS). Permission was granted by the RCVS for the TTVA to use the document in developing our Code of Conduct. This code sets out the professional responsibilities of practicing veterinary surgeons who are members of the TTVA. Supporting guidance provides further advice on the proper standards of professional practice.

The Code and supporting guidance are essential for all practicing veterinary surgeons in their professional lives. The TTVA holds this Code to be self-evident, and will bring to the attention of all practicing veterinary surgeons any reported breach of this Code, according to the approved complaint protocol.

On occasions, the professional responsibilities in the code may conflict with each other and veterinary surgeons may be presented with a dilemma. In such situations, veterinary surgeons should balance these responsibilities, having regard first to the welfare of the presenting animal.

PRINCIPLES OF PRACTICE

Veterinary surgeons seek to ensure the health and welfare of animals committed to their care and to fulfil their professional responsibilities, by maintaining five principles of practice:

1. Professional competence
2. Honesty and integrity
3. Independence and impartiality
4. Client confidentiality and trust
5. Professional accountability

The TTVA Code of Professional Conduct should be considered in the context of the five principles of practice.

PROFESSIONAL RESPONSIBILITIES

Veterinary surgeons have professional responsibilities in the following areas:

1. Veterinary surgeons and animals

1.1 Veterinary surgeons must make animal health and animal welfare their first consideration when attending to animals.
1.2 Veterinary surgeons must keep within their own area of competence and refer cases responsibly.
1.3 Veterinary surgeons must provide veterinary care that is appropriate and adequate.
1.4 Veterinary surgeons who prescribe, supply, and administer medicines must do so responsibly.
1.5 Veterinary surgeons must communicate honestly and effectively with each other to ensure the health and welfare of the animal or group of animals.
1.6 Veterinary surgeons must ensure that clinical governance forms part of their professional activities.

2. Veterinary surgeons and clients

2.1 Veterinary surgeons must be open and honest with clients, and respect their needs and requirements.
2.2 Veterinary surgeons must provide independent and impartial advice, and inform a client of any conflict of interest.
2.3 Veterinary surgeons must provide appropriate information to clients about the practice, including the costs of services and medicines.
2.4 Veterinary surgeons must communicate effectively with clients and ensure informed consent is obtained before treatments or procedures are carried out.
2.5 Veterinary surgeons must keep clear, accurate, and detailed clinical and client records.
2.6 Veterinary surgeons must not disclose information about a client or about the client's animals to a third party, unless the client gives permission or the welfare of the animal or the public interest may be compromised.
2.7 Veterinary surgeons must respond promptly, fully, and courteously to clients' complaints and criticism.

3. Veterinary surgeons and the profession

3.1 Veterinary surgeons must take reasonable steps to address adverse physical or mental health or performance that could impair fitness to practice; or that result in harm, or a risk of harm, to the health or welfare of the animal, public health, or the public interest.
3.2 Veterinary surgeons who are concerned about a professional colleague's fitness to practice must take steps to ensure that animals are not put at risk and that the interests of the public are protected.
3.3 Veterinary surgeons must maintain and develop the knowledge and skills relevant to their professional practice and competence, and comply with TTVA requirements on continuing professional development (CPD).
3.4 Veterinary surgeons must not promote themselves, or others, as having expertise they cannot substantiate, or call themselves or others a 'specialist' or similar, where to do so would be misleading or misrepresentative.

4. Veterinary surgeons and the veterinary team

4.1 Veterinary surgeons must work with all members of the veterinary team and business, to co-ordinate the care of animals and the delivery of services.
4.2 Veterinary surgeons must ensure that tasks are delegated only to those who have the appropriate competence and registration.
4.3 Veterinary surgeons must maintain minimum practice standards.
4.4 Veterinary surgeons must not impede professional colleagues seeking to comply with legislation and the TTVA Code of Professional Conduct.

5. Veterinary surgeons and the TTVA

5.1 Veterinary surgeons must be appropriately registered with the TTVA.
5.2 Veterinary surgeons must provide the TTVA with their CPD records when requested to do so.
5.3 Veterinary surgeons, and those applying to be registered as veterinary surgeons, must disclose to the TTVA any caution or conviction, including absolute or conditional discharges and spent convictions, or adverse finding which may affect registration, whether in Trinidad and Tobago or overseas (except for minor offences excluded from disclosure by the TTVA).
5.4 Veterinary surgeons, and those applying to be registered as veterinary surgeons, must comply with reasonable requests from the TTVA as part of the regulation of the profession, and comply with any undertakings they give to the TTVA.

6. Veterinary surgeons and the public

6.1 Veterinary surgeons must seek to ensure the protection of public health and animal health and welfare, and must consider the impact of their actions on the environment.
6.2 Veterinary surgeons must certify facts and opinions honestly and with due care.
6.3 Veterinary surgeons promoting and/or advertising veterinary products and services must do so in a professional manner.
6.4 Veterinary surgeons must comply with legislation relevant to the provision of veterinary services.
6.5 Veterinary surgeons must not engage in any activity or behaviour that would be likely to bring the profession into disrepute or undermine public confidence in the profession.

Back to Table of Contents

SUPPORTING GUIDANCE

1. REFERRALS AND SECOND OPINIONS

Introduction

1.1 Veterinary surgeons should facilitate a client's request for a referral or second opinion.
1.2 A referral may be for a diagnosis, procedure and/or possible treatment, after which the case is returned to the referring veterinary surgeon, whereas a second opinion is only for the purpose of seeking the views of another veterinary surgeon.

When to refer

1.3 Veterinary surgeons should recognise when a case or treatment option is outside of their area of competence and be prepared to refer it to a colleague whom they are satisfied is competent to carry out the investigations or treatment involved.
1.4 The referring veterinary surgeon has a responsibility to ensure that the client is made aware of the level of expertise of appropriate and reasonably available referral veterinary surgeons, for example, whether they are recognised specialists or certificate holders.
1.5 Both the referring veterinary surgeon and the referral veterinary surgeon have a responsibility to ensure that the client has an understanding of the likely cost arising from the referral.

Referring a case

1.6 The initial contact should be made by the referring veterinary surgeon, and the client should be asked to arrange the appointment.
1.7 The referring veterinary surgeon should provide the referral veterinary surgeon with the case history. Any further information that may be required should be promptly supplied.
1.8 The referral veterinary surgeon should discuss the case with the client including the likely costs of the referral work and report back on the case to the referring veterinary surgeon.

Second opinions

1.9 Veterinary surgeons should follow similar procedures for second opinions and ensure that any differences of opinion between the veterinary surgeons are discussed and explained constructively.

Back to Table of Contents

2. VETERINARY CARE

Introduction

2.1 Clients are entitled to have their animals housed in a comfortable environment, as appropriate to the animal's condition, by persons with the requisite knowledge and expertise.
2.2 Inevitably, caring for an in-patient is expensive and clients should be made aware of the cost of providing such care. It may be appropriate for an experienced owner to provide nursing care at home.

Treatment

2.3 Having reached a provisional diagnosis, taking into account the animal's age, the extent of any injuries or disease and the likely quality of life after treatment, veterinary surgeons should make a full and realistic assessment of the prognosis and the options for treatment or euthanasia and communicate this to the client.

In-patient care

2.4 Before leaving an animal at a practice, the owner or keeper should be made aware of the level of supervision that will be provided to the animal, particularly the level of supervision during an overnight stay. Different levels of care required arise in differing circumstances.

Continuity of care

2.5 Once an animal has been accepted as an in-patient for treatment by a veterinary surgeon, responsibility for the animal remains with that veterinary surgeon until another veterinary surgeon or practice accepts the responsibility.
2.6 Veterinary surgeons should provide uninterrupted care of an in-patient if it is considered that the animal is not fit to be moved.
2.7 Where an animal needs continuous in-patient care, a veterinary surgeon should not leave the animal until appropriate care is provided by a colleague.
2.8 It is recognised that critically ill animals will sometimes need to be moved in order to receive appropriate treatment, so practices should have appropriate transport and transfer arrangements in place. This may necessitate trained staff travelling with the animal.
2.9 When considering the treatment and transfer of animals, veterinary surgeons should consider the long-term care that may be required and avoid, so far as possible, the need for such animals to travel more than necessary.
2.10 The transfer of a critically ill animal between practices should be in the best interest of the animal, not for the convenience of the practices involved.

Information and advice services

2.11 General information taken from standard texts or articles (source acknowledged and subject to copyright law) may be disseminated via electronic media, either by way of a distance learning CPD project for veterinary surgeons, or for the general public who are seeking information about a particular condition, treatment, or medication.

2.12 General advice may be given in response to an enquiry.

2.13 Specific advice should only be given to the extent appropriate without a physical examination of the animal. The more specific the advice, the more likely that the animal's owner should be advised to consult their own veterinary surgeon, in which case the animal owner should be asked to provide their veterinary surgeon with a copy of that advice.

2.14 Veterinary surgeons should ensure that the provision of specific advice does not compromise welfare, since the animal has not been examined and there is no ability to monitor the animal.

Back to Table of Contents

3. 24-HOUR EMERGENCY FIRST AID AND PAIN RELIEF

Introduction

3.1 Veterinary surgeons in practice are encouraged to take steps to provide 24-hour emergency first aid and pain relief to animals according to their skills and the specific situation.

3.2 The responsibility for the welfare of an animal rests primarily with the owner or keeper of the animal. When the owner or keeper is concerned that the animal is suffering or requires attention and contacts a veterinary surgeon, they then place the onus of decision-making onto the veterinary surgeon. With the benefit of prior knowledge of the animal or relevant enquiry of the client, the veterinary surgeon decides whether attention is required immediately, or can be reasonably delayed.

Providing the service – first-opinion practice

3.3 Veterinary surgeons are encouraged to cooperate with each other in the provision of emergency first aid and pain relief for animals. Such cooperation may be amongst groups of local practices, or by a dedicated emergency service clinic, and arrangements should be confirmed in writing. In remote regions of Trinidad and Tobago, there may be insufficient numbers of veterinary surgeons to be able to provide an emergency service.

3.4 Clients should be provided with information about the emergency service, including relevant telephone numbers, location details and the likely initial costs of a consultation. Such information should enable clients to consider whether they are able to access the service outside normal working hours. Special consideration should be given to clients registered as disabled who may have difficulty travelling outside normal working hours.

Providing the service – referrals

3.5 Appropriate post-operative or in-patient care should be provided by the veterinary surgeon to whom the case is referred, or by another veterinary surgeon with appropriate expertise (and at a practice with appropriate facilities).

Planning for on-call duty

3.6 Veterinary surgeons taking steps to provide emergency first aid and pain relief for animals should provide protocols for on-duty veterinary surgeons, to include, for example, advice on animal ambulance and taxi-services willing to transport animals outside normal working hours, any veterinary back-up, details of relevant equipment and local contacts, and information on the provision of other 24-hour emergency services in the locality.

3.7 The staffing, facilities, and arrangements should be appropriate to the likely workload of the practice.

On-call duty

3.8 An on-call veterinary surgeon should not refuse to provide first aid and pain relief for any animal of a species treated by the practice during normal working hours without a justified reason. An on-call veterinary surgeon should not refuse to provide first aid and facilitate the provision of pain relief without a justified reason, for all other species until such time as a more appropriate emergency veterinary service accepts responsibility for the animal.

3.9 Likely costs and arrangements for payment should be discussed at an early stage, but immediate first aid and pain relief should not be delayed while financial arrangements are agreed.

3.10 If the owner of an animal, who is not a client of the practice, requests an emergency out-of-hours consultation, the veterinary surgeon may reasonably direct the owner to his or her usual veterinary surgeon and decline to carry out the consultation. Immediate first aid and pain relief should be provided to the animal if, for whatever reason, the owner cannot contact his or her usual veterinary surgeon. Holidaymakers, new owners, and other categories of animal owner may not have a 'usual veterinary surgeon' in the locality.

3.11 Clients may request attendance on a sick or injured animal away from the practice premises and, in some circumstances, it may be desirable to do so. On rare occasions, it may be necessary on clinical or welfare grounds. The decision to attend away from the practice lies with the veterinary surgeon, having carefully balanced the needs of the animal against the safety implications of making the visit; a veterinary surgeon is not expected to risk 'life or limb', or that of anyone else to provide the service.

Back to Table of Contents

4. VETERINARY MEDICINES

Introduction

4.1 The responsible use of veterinary medicines for therapeutic and prophylactic purposes is one of the major skills of a veterinary surgeon and crucial to animal welfare and the maintenance of public health.

Classification of veterinary medicine

4.2 All medicines used, bought or sold in Trinidad and Tobago are governed by the Pharmacy Board Act, Chapter 29:52. Please refer to this Act for further information.

Prescription of veterinary medicines

4.3 Veterinary surgeons should prescribe responsibly and with due regard to the health and welfare of the animal.

4.4 Veterinary medication should only be prescribed after the veterinary surgeon has carried out a clinical assessment of the animal under his or her care. The phrase 'under his/her care' is interpreted by the TTVA to mean that:

a. the veterinary surgeon must have been given the responsibility for the health of the animal or herd by the owner or the owner's agent.
b. that responsibility must be real and not nominal.
c. the animal or herd must have been seen immediately before prescription or,
d. recently enough or often enough for the veterinary surgeon to have personal knowledge of the condition of the animal or current health status of the herd or flock to make a diagnosis and prescribe.
e. the veterinary surgeon must maintain clinical records of that herd/flock/individual.

4.5 What amounts to 'recent enough' must be a matter for the professional judgement of the veterinary surgeon in the individual case.

4.6 A veterinary surgeon cannot usually have an animal under his or her care if there has been no physical examination; consequently a veterinary surgeon should not treat an animal or prescribe medication via electronic media alone.

Clinical assessment

4.7 The TTVA has interpreted 'clinical assessment' as meaning an assessment of relevant clinical information, which may include an examination of the animal under the veterinary surgeon's care.

Diagnosis

4.8 Diagnosis for the purpose of prescription should be based on professional judgement following clinical examination and/or post mortem findings supported, if necessary, by laboratory or other diagnostic tests.

Choice of medicinal products

4.9 The selected product should be authorised for use in Trinidad and Tobago in the target species for the condition being treated and used at the manufacturer's recommended dosage.

4.10 If there is no suitable authorised veterinary medicinal product in Trinidad and Tobago for a condition in a particular species, a veterinary surgeon may, in particular to avoid unacceptable suffering, treat an animal in accordance with the following 'Cascade'.

4.11 If there is no medicine authorised in Trinidad and Tobago for a condition affecting a non-food-producing species, the veterinary surgeon responsible for treating the animal(s) may, in particular to avoid unacceptable suffering, treat the animal(s) in accordance with the following sequence:

a. a veterinary medicine authorised in Trinidad and Tobago for use in another animal species or for a different condition in the same species; or if there is no such product:
b. a medicine authorised in Trinidad and Tobago for human use; or
c. a medicine prepared extemporaneously by a veterinary surgeon, a pharmacist or a person holding an appropriate manufacturer's authorisation, as prescribed by the veterinary surgeon responsible for treating the animal.

4.12 A decision to use a medicine which is not authorised for the condition in the species being treated where one is available should not be taken lightly or without justification. In such cases clients should be made aware of the intended use of unauthorised medicines and given a clear indication of potential side effect. Their consent should be obtained in writing. In the case of exotic species, most of the medicines used are unlikely to be authorised for use in Trinidad and Tobago and owners should be made aware of, and consent to, this from the outset.

4.13 Special Manufacturers may already have experience of preparing the product in question and will have the necessary equipment to prepare and check the quality of the product.

4.14 Horses declared 'not for human consumption' are regarded as non-food-producing animals for the purposes of these provisions.

The prescribing cascade – food-producing animals

4.15 If there is no medicine authorised in Trinidad and Tobago for a condition affecting a food-producing species, the veterinary surgeon responsible for treating the animal(s) may use the cascade options as set out in paragraph 4.11 above, except that the following additional conditions apply:

a. the treatment in any particular case is restricted to animals on a single holding;
b. the veterinary surgeon responsible for prescribing the medicine must specify an appropriate withdrawal period;
c. the veterinary surgeon responsible for prescribing the medicine must keep specified records.

Antimicrobial and anthelmintic resistance

4.16 The development and spread of antimicrobial resistance is a global public health problem that is affected by use of these medicinal products in both humans and animals. Veterinary surgeons must be seen to ensure that when using antimicrobials they do so responsibly, and be accountable for the choices made in such use. Resistance to anthelmintics in grazing animals is serious and on the increase; veterinary surgeons must use these products responsibly to minimise resistance development.

Responsibilities associated with the prescription and supply of medicines

4.17 A veterinary surgeon who prescribes veterinary medicines must:

a. before he/she does so, be satisfied that the person who will use the product is competent to use it safely and intends to use it for a use for which it is authorised;
b. when he/she does so, advise on the safe administration of the veterinary medicinal product;
c. when he/she does so, advise as necessary on any warnings or contraindications on the label package leaflet; and

d. not to prescribe more than the minimum quantity required for the treatment.

4.18 The TTVA considers 'minimum amount' to be a matter for the professional judgement of the veterinary surgeon in the individual case.

4.19 Veterinary medicinal products must be supplied in appropriate containers and with appropriate labeling.

Administration

4.20 A medicine prescribed in accordance with the Cascade may be administered by the prescribing veterinary surgeon or by a person acting under their direction. Responsibility for the prescription and use of the medicine remains with the prescribing veterinary surgeon.

Storage of medicines

4.21 All medicines should be stored in accordance with manufacturer's recommendations whether in the practice or in a vehicle. If it is stipulated that a medicine be used within a specific time period, it must be labeled with the opening date, once broached.

4.22 Controlled drugs must be stored properly, so that there is no unauthorised access. There should be no direct access by members of the public (including family and friends); and, staff and contractors employed by the practice should be allowed access only as appropriate. Veterinary surgeons should take steps to ensure that members of staff with access to controlled drugs are not a danger to themselves or others, when they join the practice and at times when they may be vulnerable.

4.23 Veterinary surgeons should keep a record of premises and other places where they store or keep medicinal products, for example, private vehicles and homes where medicinal products are kept for on-call purposes. The record should be held at the practice's main 'veterinary practice premises' in accessible form.

Ketamine

4.24 Ketamine may be the subject of misuse, and should therefore be stored in the controlled drugs cabinet and its use recorded in an informal register.

Associations with other suppliers of medicines

4.25 A veterinary surgeon who is associated with retail supplies of veterinary medicines (or makes such supplies), should ensure that those to whom the medicines are supplied, or may be supplied, are informed of:

a. the name and qualification (veterinary surgeon or pharmacist) of any prescriber;
b. the name and qualification (veterinary surgeon or pharmacist) of the supplier, and;
c. the nature of the duty of care for the animals.

4.26 Similar safeguards should be put in place by a veterinary surgeon who is associated with retail supplies of veterinary medicinal produces by pharmacists.

Obtaining medicines

4.27 Veterinary surgeons should ensure that medicines they supply are obtained from reputable sources and in accordance with the legislation, particularly where medicines are imported or manufactured overseas.

Back to Table of Contents

5. COMMUNICATION BETWEEN PROFESSIONAL COLLEAGUES

Introduction

5.1 Overtly poor relationships between veterinary surgeons undermine public confidence in the whole profession.
5.2 Veterinary surgeons should liaise with colleagues where more than one veterinary surgeon has responsibility for the care of a group of animals. Relevant clinical information should be provided promptly to colleagues taking over responsibility for a case and proper documentation should be provided for all referral or re-directed cases. Cases should be referred responsibly.
5.3 Veterinary surgeons should not speak or write disparagingly about another veterinary surgeon. Clients should not be obstructed from changing to another veterinary practice and should not be discouraged from seeking a second opinion.

Taking over a colleague's case

5.4 Although both veterinary surgeon and client have freedom of choice, in the interests of the welfare of animals involved, a veterinary surgeon should not knowingly take over a colleague's case without informing the colleague in question and obtaining a clinical history.
5.5 When an animal is initially presented, a veterinary surgeon should ask whether the animal is already receiving veterinary attention or treatment and, if so, when it was last seen; then contact the original veterinary surgeon for a case history. It should be made clear to the client that this is necessary in the interests of the patient. If the client refuses to provide the information, the case should be declined.
5.6 In an emergency, it is acceptable to make an initial assessment and administer any essential treatment before contacting the original veterinary surgeon.

Mutual clients

5.7 Where different veterinary surgeons are treating the same animal, or group of animals, each should keep the other informed of any relevant clinical information, so as to avoid any danger that might arise from conflicting advice, or adverse reactions arising from unsuitable combinations of medicines.
5.8 Where two veterinary surgeons are treating different groups of animals owned by the same client, it is still advisable for each to keep the other informed of any problem that might affect their work.

Back to Table of Contents

6. CLINICAL GOVERNANCE

Introduction

6.1 Clinical governance is a continual process of reflection, analysis and improvement in professional practice for the benefit of the animal patient and the client/owner. This practical guidance is intended to help all veterinary surgeons to undertake clinical governance, whether they are in clinical practice or not. Much of the advice for individual veterinary surgeons, and the veterinary team, will be covered in other parts of the Code and its supporting guidance.

Guidance for individual veterinary surgeons

6.2 Clinical governance may include:

a. keeping up to date with continuing professional development (CPD) and new developments relevant to the area of work;
b. reflecting upon performance, preferably in the form of a learning diary, and making appropriate changes to practice;
c. reflecting upon any unexpected critical events and learning from the outcome and making appropriate changes to practice;
d. critically analysing the evidence base for procedures used and making appropriate changes to practice;
e. reflecting upon communication with other members of the work team and making appropriate changes to practice;
f. reflecting upon communication with clients and making appropriate changes to practice; and,
g. assessing professional competence in consultation with more experienced or more highly qualified colleagues and limiting your practice appropriately.

Guidance for the veterinary team

6.3 Clinical governance may include:

a. Animal safety

    i. In case of any critical event e.g. unexpected medical or surgical complications, serious complaint, accident or anaesthetic death, hold a no-blame meeting of all staff involved as soon as possible after the incident and record all the details.
    ii. At the critical event meeting consider what, if anything, could have been done to avoid this incident, and what changes can be made in procedure as a result.

iii. Have clear protocols in place to ensure all staff are familiar with procedures for ensuring patient safety.
iv. Communicate changes in procedure to the whole practice team.
v. Ensure staff are aware that referral (to an appropriate veterinary surgeon in the practice or another practice) is an option to the client.

b. Clinical effectiveness

i. Organise regular clinical discussion meetings for the practice team, record minutes, and review any action points at future meetings. All clinical staff should be encouraged to participate and input items onto the agenda.
ii. Follow up any clinical issues arising from clinical discussion meetings.
iii. Make appropriate changes as a result of clinical discussion meetings and monitor these changes to ensure they are effective.
iv. Organise online discussion forums to discuss clinical cases where geography or part-time working make face-to-face meetings difficult.
v. Organise practice team discussions on guidelines or protocols used in practice. Look at the evidence base for common procedures and treatments used in the practice and revise these as a result if necessary.
vi. Build up a manual that can be used as clinical guidance in the practice. Ensure that it is regularly updated and new or temporary members of staff are made familiar with its contents at the earliest opportunity.
vii. Organise clinical clubs or journal clubs, either live or online, critically discussing cases and clinical papers.
viii. Audit the results of clinical procedures of interest to the practice team and use the results to improve patient care.
ix. Have a policy, with funding if possible, to encourage CPD for all veterinary surgeons and clinical support staff.
x. Have a system for individuals to feedback interesting information from CPD courses to the rest of the practice team.
xi. Incorporate information learned at CPD courses into practice protocols, where appropriate.
xii. Ensure clinical staff have access to suitable up-to-date reference material.
xiii. Have systems to ensure that information on new veterinary products or new pieces of equipment is communicated to the veterinary team.

xiv. Have a performance review system in place for all clinical staff to monitor and plan development.

c. Patient and client experience

i. Ensure continuity of care for patients by having effective systems of case handovers between clinical staff.
ii. Have protocols to safeguard the pain relief and nursing care for all inpatients.
iii. Have an effective means of communicating with clients, e.g. newsletters, web sites etc.
iv. Monitor and take note of feedback from clients.
v. Ensure that clients can easily find out the names of staff, e.g. badges, notice boards, web site etc.
vi. Have protocols known to all relevant staff for dealing with members of the public.
vii. Have a complaints procedure.
viii. Record all complaints received and the responses to the clients.
ix. Have an effective communication system within the practice.

Back to Table of Contents

7. PRE-PURCHASE EXAMINATION OF ANIMALS

Introduction

7.1 Animal pre-purchase examinations (PPEs), or animal vetting, are carried out at the request of a potential purchaser (or agent), to determine, so far as is possible by clinical examination, whether the animal is suitable for the intended use.

7.2 Examining an animal on behalf of a vendor is not generally advisable except in the special circumstances of an auction of animals.

Examination

7.3 Generally, the examination is carried out by a veterinary surgeon with no prior knowledge of the animal's clinical condition and who has no access to the animal's clinical records. Some information about an animal may be made available by the vendor.

7.4 The PPE provides an assessment of the animal at the time of examination, to assist the decision to purchase or not, and is an indication, not a guarantee, of an animal's suitability for intended use.

Certificate

7.5 All clinical findings and clinical information within the documents which are relied upon, and that are relevant to the opinion, must be stated in the certificate.

7.6 It is advisable to retain copies of all relevant information considered as part of the examination and which are referred to in the certificate.

Conflict of interest

7.7 Generally, a person intending to purchase an animal will seek a PPE by a veterinary surgeon and, for this purpose, becomes that veterinary surgeon's client.

7.8 Ideally, veterinary surgeons should not carry out PPEs where the vendor is an existing client because of the conflict of interest. If for practical or other reasons veterinary surgeons do, they should follow additional safeguards to ensure the examination is not only fair, but is perceived to be fair, by the client requesting the PPE.

7.9 These additional safeguards are:

a. the veterinary surgeon makes the purchaser aware that the vendor is also a client and the potential purchaser has no objection. If there is an objection, the vendor's veterinary surgeon must not act;

b. the vendor agrees to permit disclosure of relevant clinical/case records. If permission cannot be obtained then the vendor's veterinary surgeon should not act. If the records reveal a factor which is likely to be prejudicial to the purchaser's intended use, the purchaser should be informed with the vendor's permission in advance of the examination; and,

c. it is made clear to both parties that in this instance the veterinary surgeon is acting on behalf of the purchaser.

7.10 While having regard to the usual constraints of client confidentiality, there may be occasions when the examining veterinary surgeon considers it appropriate, for reasons of animal welfare (including good husbandry) or public interest, to advise the vendor of relevant findings. In these circumstances, common sense and courtesy should prevail.

Back to Table of Contents

8. EUTHANASIA OF ANIMALS

Introduction

8.1 Euthanasia may be defined as 'painless killing to relieve suffering'. Veterinary surgeons should be aware that these events are often highly emotionally charged. In these circumstances, small actions and/or omissions can take on a disproportionate level of importance. It is recommended that all practice staff involved in euthanasia are fully trained and a planned, rehearsed and coordinated approach is taken.

8.2 Euthanasia is not, in law, an act of veterinary surgery, and may be carried out by anyone provided that it is carried out humanely. No veterinary surgeon is obliged to kill a healthy animal unless required to do so under statutory powers as part of their conditions of employment. Veterinary surgeons do, however, have the privilege of being able to relieve an animal's suffering in this way in appropriate cases.

8.3 Generally, only veterinary surgeons should have access to the controlled drugs often used to carry out the euthanasia of animals.

Purpose of euthanasia

8.4 The primary purpose of euthanasia is to relieve suffering. The decision to follow this option will be based on an assessment of many factors. This may include the extent and nature of the disease or injuries, other treatment options, the prognosis and potential quality of life after treatment, the availability and likelihood of success of treatment, the animal's age and/or other disease/health status and the ability of the owner to pay for private treatment.

Difficulties with the decision

8.5 Veterinary surgeons may face difficulties when an owner wants to have a healthy or treatable animal destroyed, or when an owner wishes to keep an animal alive in circumstances where euthanasia would be the kindest course of action.

8.6 The veterinary surgeon's primary obligation is to relieve the suffering of an animal, but consideration must be given to the animal's condition, and to the owner's wishes and circumstances. To refuse an owner's request for euthanasia may add to the owner's distress and could be deleterious to the welfare of the animal. Where in all conscience, a veterinary surgeon cannot accede to a client's request for euthanasia, he or she should recognise the extreme sensitivity of the situation and make sympathetic efforts to direct the client to alternative sources of advice.

8.7 Where the reason for a request for euthanasia is the inability of the client to pay for private treatment, it may be appropriate to make known the options and eligibility for charitable assistance or referral for charitable treatment.

8.8 Where a veterinary surgeon is concerned about an owner's refusal to consent to euthanasia, veterinary surgeons can only advise their clients and act in accordance with their professional judgement. Where a veterinary surgeon is concerned that an animal's welfare is compromised because of an owner's refusal to allow euthanasia, a veterinary surgeon may take steps to resolve the situation, for example, an initial step could be to seek another veterinary opinion for the client, potentially by telephone.

Euthanasia without the owner's consent

8.9 A person with responsibility for an animal may commit an offence if an act, or failure to act, causes an animal to suffer unnecessarily. An owner is always responsible for their animal but a veterinary surgeon is likely to be responsible for the animal when it is an inpatient at the practice. If, in the opinion of the veterinary surgeon, the animal's condition is such that it should, in its own interests, be destroyed without delay, the veterinary surgeon may need to act without the owner's consent and should make a full record of all the circumstances supporting the decision in case of subsequent challenge. Generally, there should be discussions with the owner of the animal before such a decision, which should be endorsed by a veterinary surgeon not directly involved with the case until that time.

Sporting events

8.10 Where the veterinary surgeon is asked to destroy an animal injured in a sporting event, the opinion of a professional colleague, if available, should be sought before doing so. Veterinary surgeons officiating at sporting events should consider:

a. whether the owner will be present and able to consent to euthanasia if necessary

b. whether the owner has delegated authority to another to make that decision in their absence and

c. whether if damages were sought for alleged wrongful destruction they would have adequate professional indemnity insurance cover.

Back to Table of Contents

9. PRACTICE INFORMATION AND FEES

Practice information

9.1 Veterinary practices should provide clients, particularly those new to the practice, with comprehensive written information on the nature and scope of the practice's services, including:

a. the availability, initial cost and location of out-of-hours emergency service (where applicable);

b. information on the care of in-patients;

c. the practice's complaints handling policy, and could also provide full terms and conditions of business, to include, for example:
    i. practice opening times
    ii. whether it is a walk-in service, or by appointment
    iii. fee or charging structures
    iv. procedures for second opinions and referrals
    v. use of client data
    vi. access to and ownership of records

Freedom of choice

9.2 Veterinary surgeons should not obstruct a client from changing to another veterinary practice, or discourage a client from seeking a second opinion.

9.3 If a client's consent is in any way limited, qualified or specifically withheld, veterinary surgeons should accept that their own preference for a certain course of action cannot override the client's specific wishes, other than on exceptional welfare grounds.

9.4 The TTVA has no specific jurisdiction over the level of fees charged by veterinary practices. There are no statutory charges and fees are essentially a matter for negotiation between veterinary surgeon and client.

9.5 Fees may vary between practices and may be a factor in choosing a practice, as well as the practice's facilities and services, for example, whether the veterinary surgeons make home visits routinely and what sort of arrangements are in place for 'out-of-hours' emergency calls (e.g. are emergency consultations at the practice premises, or by another practice at another location).

9.6 Veterinary surgeons should include any estimated charge or fee on a consent form. In the event of a fee dispute, whether a client must pay a bill is a matter to be resolved between the parties or by the civil courts. Therefore, in most cases, disputes about the level of veterinary surgeons' fees fall outside the jurisdiction of the TTVA.

Invoices

9.7 All invoices should be itemised showing the amounts relating to goods including individual relevant medicinal products and services provided by the practice. Fees for outside services and any charge for additional administration or other costs to the practice in arranging such services should also be shown separately.

Unpaid bills

9.8 A veterinary surgeon is entitled to charge a fee for the provision of services and, where the fee remains unpaid, to place the matter in the hands of a debt collection agency or to institute civil proceedings.

9.9 In the case of persistently slow payers and bad debtors, it is acceptable to give them notice in writing (preferably by recorded delivery) that veterinary services will no longer be provided.

Holding an animal against unpaid fees

9.10 Although veterinary surgeons do have a right to hold an animal until outstanding fees are paid, the TTVA believes that it is not in the interests of the animal to do so, and can lead to the practice incurring additional costs which may not be recoverable.

Prescriptions

9.11 Veterinary surgeons may make a reasonable charge for written prescriptions. Veterinary surgeons must not discriminate between clients who are supplied with a prescription and those who are not, in relation to fees charged for other goods or services.

Re-direction to charities

9.12 All charities have a duty to apply their funds to make the best possible use of their resources. Clients should contact the charity to confirm their eligibility for assistance. The veterinary surgeon should ensure that the animal's condition is stabilised so that the animal is fit to travel to the charity, and provide details of the animal's condition, and any treatment already given, to the charity.

9.13 If the client is not eligible for the charitable assistance and no other form of financial assistance can be found, euthanasia may have to be considered on economic grounds.

Securing payment for veterinary services

9.14 A client is the person who requests veterinary attention for an animal, for example when a veterinary surgeon is called to the scene of a road traffic accident by the police or by the TTSPCA, the organisation in question will be liable to pay for any emergency treatment and for the call out, even if the animal's owner is subsequently identified (because the owner had no opportunity to consent to treatment).

Back to Table of Contents

10. FAIR TRADING REQUIREMENTS

Introduction

10.1 Veterinary surgeons must:

a. ensure clients are able to obtain prescriptions, as appropriate;

b. subject to any legal restrictions, ensure there is adequate provision of information on medicine prices;

c. provide the price of any relevant veterinary medicinal product stocked or sold, to clients or other legitimate enquirers making reasonable requests;

d. if requested, inform clients of the price of any medicine to be prescribed or dispensed;

e. where possible and relevant, inform clients of the frequency of, and charges for, further examinations of animals requiring repeat prescriptions;

f. provide clients with an invoice that distinguishes the price of relevant veterinary medicinal products from other charges and, where practicable, provide clients with an invoice that distinguishes the price of individual relevant veterinary medicinal products.

Back to Table of Contents

11. COMMUNICATION AND CONSENT

Informed consent

11.1 Informed consent, which is an essential part of any contract, can only be given by a client who has had the opportunity to consider a range of reasonable treatment options, with associated fee estimates, and had the the proposed outcome and main risks of each treatment option explained to them. Informed consent may be verbal or written.

Client relationship

11.2 The client may be the owner of the animal, someone acting with the authority of the owner, or someone with statutory or other appropriate authority. Care should be taken when the owner is not the client. Practice staff should ensure they are satisfied that the person giving consent has the authority to provide consent. The provision of veterinary services creates a contractual relationship under which the veterinary surgeon should:

a. take all reasonable care in using their professional skills to treat animal patients;

b. keep their skills and knowledge up to date;

c. keep within their own areas of competence, save for the requirement to provide emergency first aid;

d. maintain clear, accurate, and comprehensive case records and accounts;

e. ensure that a range of reasonable treatment options are offered and explained, including prognoses and possible side effects;

f. give realistic fee estimates based on treatment options;

g. keep the client informed of progress, and of any escalation in costs once treatment has started;

h. obtain the client's consent to treatment unless delay would adversely affect the animal's welfare (to give informed consent, clients must be aware of risks);

i. ensure that all staff are properly trained and supervised where appropriate;

j. ensure that the client is made aware of any procedures to be performed by practice staff who are not veterinary surgeons; and,

k. recognise that the client has freedom of choice.

Communication

11.3 Veterinary surgeons should seek to ensure that what both they and clients are saying is heard and understood on both sides, and encourage clients to participate fully in any discussion. Veterinary surgeons should use language appropriate for the client and explain any clinical or technical terminology that may not be understood. The veterinary surgeon must be able to speak and write the English language to an appropriate standard. If there is any doubt about the client's consent, efforts should be made to resolve this, which are then recorded (preferably at least in writing).

11.4 Where the client's ability to understand is called into question, veterinary surgeons will need to consider whether any practical steps can be taken to assist the client's understanding. For example, consider whether it would be useful for a family member or friend to be present during the consultation. Additional time may be needed to ensure the client has understood everything and has had an opportunity to ask questions.

11.5 If the client's consent is in any way limited, qualified, or specifically withheld, this should be recorded on the clinical records. Veterinary surgeons must accept that their own preference for a certain course of action cannot override the client's specific wishes, other than on exceptional welfare grounds.

11.6 Provision should be made for uncertain or unexpected outcomes. Clients should be asked to provide contact telephone numbers to ensure discussions can take place at short notice. Provision for the veterinary surgeon to act without the client's consent if necessary in the interests of the animal should be considered.

11.7 Practice staff may be the first to become aware of any misunderstanding by clients concerning a procedure or treatment. Veterinary surgeons should advise practice staff to communicate any concerns to the senior veterinary surgeon and ensure that the client is kept fully informed.

11.8 Veterinary surgeons in the veterinary team and different practices should be encouraged to work together to ensure effective communication with clients and with each other.

Discussion of fees

11.9 Discussion should take place with the client, covering a range of reasonable treatment options and prognoses, and the likely charges (including ancillary or associated charges, such as those for medicines/anaesthetics and likely post-operative care) in each case so as to ensure that the client is in a position to give informed consent. The higher the fee, the greater is the necessity for transparency in the giving of detailed information to the client.

11.10 It is wise for any estimate to be put in writing, or on the consent form, and to cover the approximate overall charge for any procedure or treatment including VAT, pre- and post-operative checks, any diagnostic tests, etc. The owner should be warned that additional charges may arise if complications occur. If a quote is given, it may be binding in law. Part payments or deposits may be accepted at the discretion of the individual veterinary practice, and these must be documented on the appropriate billing document.

11.11 If the animal is covered by pet insurance, it is in the interests of both veterinary surgeon and client to confirm the extent of the cover under the policy, including any limitations on cost or any exclusions which would apply to the treatment proposed.

11.12 If, during the course of treatment, it becomes evident that an estimate or a limit set by the client is likely to be exceeded, the client should be contacted and informed so that consent to the increase may be obtained. This should be recorded in writing on the clinical records, and on any associated accounting document, by the veterinary surgeon.

Public health

11.13 Veterinary surgeons should inform clients and others as appropriate, of any human health care implications arising from the condition, care, tests, or treatment of animals, particularly for those persons who may be more at risk.

Young persons and children

11.14 Persons under the age of 18 are generally considered to lack the capacity to make binding contracts. They should not be made liable for any veterinary or associated fees.

11.15 Persons under the age of 16 should not be asked to sign a consent form. Where they have provided a signature, parents or guardians should be asked to countersign.

11.16 Where the person seeking veterinary services is 16 or 17 years of age, veterinary surgeons should, depending on the extent of the treatment, the likely costs involved and the welfare implications for the animal, consider whether consent should be sought from parents or guardians before the work is undertaken.

11.17 Particular care should be taken when the treatment involves issues of health and safety, as for supply Controlled Drugs to anyone under the age of 18.

Consent forms

11.18 Consent forms may be used to record agreement to carry out specific procedures. They form part of the clinical records. If any amendments are made subsequently, these should be made in ink, initialed, dated, and a note of subsequent conversations recorded on the clinical records.

11.19 For routine procedures, information leaflets can be useful to explain to clients what is involved with a specific procedure, anaesthesia, expected outcome, after care, etc. Clients should be given an opportunity to consider this information before being asked to sign a consent form. Use of information sheets should be encouraged, but should not be used as a substitute for discussions with individual clients.

11.20 A copy of the form should be provided to the person signing the form unless the circumstances render this impractical.

Mental incapacity

11.21 Where it appears a client lacks the mental capacity to consent, veterinary surgeons should try to determine whether someone is legally entitled to act on that person's behalf, such as someone who may act under an enduring power of attorney. If not, veterinary surgeons should act in the best interests of the animal and seek to obtain consent from someone close to the client, such as a family member who is willing to provide consent on behalf of the person.

Back to Table of Contents

12. USE AND RE-USE OF SAMPLES, IMAGES, POST MORTEMS AND DISPOSAL

Informed consent

12.1 There may be occasions when veterinary surgeons have to consider taking samples for diagnostic or treatment purposes, or post-mortem. These samples may include blood, tissue, body parts or whole cadavers. After samples have been taken, it may be that the re-use of the sample for other purposes is considered.

12.2 The starting point for the use of samples is informed consent. A client should consent to a sample for initial diagnostic or treatment purposes, whatever the size or species of the animal, whether it is a farm animal or domestic pet and whether the animal is living or dead. Generally, a client should also consent to any re-use of the sample for other purposes.

12.3 In situations where another veterinary surgeon becomes involved in the treatment of an animal, for instance, with a referral or transfer to a dedicated out-of-hours provider, the referring veterinary surgeon should ensure that consent is obtained from the client for the referral. Once the animal has been transferred to the second practice, consent for procedures subsequently carried out is a matter for the second practice.

Disease surveillance schemes and the re-use of samples

12.4 Veterinary surgeons may take samples from animals for testing for treatment purposes, academic research, or statutory purposes. Generally, samples will be taken with the consent of the client for a specific purpose.

12.5 The legal obstacles to the re-use of samples for general disease surveillance can be overcome with the specific consent of the client. This could be set out in a suitably worded consent form, making the client aware of the re-use of the samples from their animal.

12.6 The re-use of samples without the consent of the client may be reasonable for animal welfare or public interest reasons, for example, disease surveillance by the State, or where obtaining the consent of the relevant animal owners is impractical and the samples are re-used anonymously. Nevertheless, consent should be obtained wherever possible.

Images

12.7 Generally, a veterinary surgeon should seek client consent before taking images of animals, especially where it would be possible to recognise the animal. Clients should also be informed about the ways in which the images will be used. Where possible, further consent should be obtained if the images are used in a way that is not covered by the original consent (for example, if images of an animal are taken for use in a casebook, they should not subsequently be used on a practice website without further consent from the client).

Pathology

12.8 Surgical and post-mortem pathology is inherently diagnostic and is fully within the legal definition of veterinary surgery.

Post-mortem examinations

12.9 The veterinary surgeon should ensure that the client has been fully advised of the scope of the post-mortem examination and/or any limitations to manage client expectations, and understands not only the financial implications of that request, but also that the findings may prove inconclusive. The veterinary surgeon should give the client the option of an examination by an independent veterinary surgeon.

12.10 In cases in which the owner has retained the cadaver of an animal following treatment by a veterinary surgeon prior to its death, and subsequently requests another veterinary surgeon to carry out an independent post-mortem examination, the normal ethical rules regarding supersession and second opinions do not apply. Nevertheless, generally the original veterinary surgeon should be advised by his or her colleague that the post-mortem examination is to be carried out and should be invited to provide information regarding previous treatment as an aid to the preparation of an accurate report. The results of the examination must, however, be communicated only to the client and not to the original veterinary surgeon without the client's consent.

12.11 Veterinary surgeons wishing to carry out a post-mortem examination upon the cadaver of an animal which they have previously treated, in order to satisfy themselves as to the cause of death (rather than at the request of the client), must seek the permission of the client to carry out such an examination. Consent may be provided verbally, for example, by telephone, although it is best practice to obtain the consent in

writing, for example, on a specific consent form which may provide for the use and re-use of samples.

12.12 Veterinary surgeons should be mindful that owners may be in an emotional or distressed state at this time.

Disposal

12.13 Generally, a veterinary surgeon should seek informed consent from the owner to disposal options for the cadaver.

Back to Table of Contents

13. CLINICAL AND CLIENT RECORDS

13.1 Clinical and client records should include details of examination, treatment administered, procedures undertaken, medication prescribed and/or supplied, the results of any diagnostic or laboratory tests (including, for example, radiograph, ultrasound or electrocardiogram images or scans), provisional or confirmed diagnoses, and advice given to the client. It is prudent to include plans for future treatment or investigations, details of proposed follow-up care or advice, notes of telephone conversations, fee estimates or quotations, consents given or withheld and contact details. Ideally, client financial information should be recorded separately from clinical records.

13.2 The utmost care is essential in writing case notes or recording a client's personal details to ensure that they are accurate and that the notes are comprehensible and legible. Clinical and client records should be objective and factual, and veterinary surgeons should avoid making personal observations or assumptions about a client's motivation, financial circumstances or other matters.

13.3 Clinical and client records including radiographic images and similar documents, are the property of, and should be retained by, veterinary surgeons in the interests of animal welfare and for their own protection.

13.4 Copies with a relevant clinical history should be passed on request to a colleague taking over the case.

13.5 Where a client has been specifically charged and has paid for radiographic images or other reports, they are legally entitled to them. A practice may choose to make it clear to clients that they are not charged for prints of radiographs or laboratory reports, but for diagnosis or advice only.

13.6 At the request of a client, veterinary surgeons must provide copies of any relevant clinical and client records, including radiographic images and similar documents. This also includes relevant records which have come from other practices, if they relate to the same animal and the same client, but does not include records which relate to the same animal but a different client.

Back to Table of Contents

14. CLIENT CONFIDENTIALITY

Introduction

14.1 The veterinary/client relationship is founded on trust, and in normal circumstances a veterinary surgeon should not disclose to any third party any information about a client or their animal either given by the client, revealed by clinical examination or by post-mortem examination. This duty also extends to support staff employed by a veterinary practice.

14.2 The client's permission to disseminate confidential information may be express or implied. Express permission may be either verbal or in writing, usually in response to a request from a relevant authority. Permission may also be implied from circumstances, for example in the making of a claim under a pet insurance policy, when the insurance company may receive all information relevant to the claim and seek clarification if required.

Reporting to authorities

14.3 In circumstances where the client has not given permission for disclosure and the veterinary surgeon considers that the welfare of the animals concerned or the public interest are compromised, client confidentiality may be breached and appropriate information reported to the relevant authorities. The more that animal welfare or public interest is compromised, the more prepared a veterinary surgeon should be to report that alleged criminal activity to the relevant authority.

14.4 Generally, a breach of client confidentiality should be based on personal knowledge, for example, when a veterinary surgeon has directly witnessed the unlawful activity, rather than third-party (hearsay) information, where there may be simply a suspicion that somebody has acted unlawfully.

14.5 Support staff employed by a veterinary surgeon or practice should not breach client confidentiality. Issues of this nature are the responsibility of the practice owner or a senior veterinary surgeon in the practice, if concerns have been raised.

14.6 Each case should be determined on the particular circumstances, and veterinary surgeons who wish to seek advice on matters of confidentiality and breaching client confidentiality are encouraged to contact the TTVA executive to seek advice.

Animal abuse

14.7 When a veterinary surgeon is presented with an injured animal whose clinical signs cannot be attributed to the history provided by the client, he/she should include non-accidental injury in their differential diagnosis.

14.8 If there is suspicion of animal abuse, as a result of examining an animal, a veterinary surgeon should consider whether the circumstances are sufficiently serious to justify breaching the usual obligations of client confidentiality. In the first instance, in appropriate cases, the veterinary surgeon should attempt to discuss his/her concerns with the client.

14.9 In cases where this would not be appropriate, or where the client's reaction increases rather than allays concerns, the veterinary surgeon should contact the relevant authorities to report alleged cruelty to an animal.

14.10 Such action should only be taken when the veterinary surgeon considers on reasonable grounds that animals either show signs of abuse or are at real and immediate risk of abuse – in effect, where the public interest in protecting an animal overrides the professional obligation to maintain client confidentiality.

Child abuse and domestic violence

14.11 Given the links between animal and child abuse and domestic violence, a veterinary surgeon reporting suspected animal abuse to the relevant authority should consider whether a child might be at risk. A veterinary surgeon may also consider a child to be at risk in the absence of any animal abuse.

14.12 Where a veterinary surgeon is concerned about child abuse or domestic violence, he/she should consider reporting the matter to the relevant authorities, for example, 800-4321 Child Line.

Using microchips to help reunite animals with their owners

14.13 Microchips are implanted in companion animals to assist with their return if lost or stolen and veterinary surgeons are frequently the first point of contact for those owners whose animals are missing.

14.14 A microchip may be scanned in circumstances where, for example, the animal has been lost or is a stray, it is suspected that the animal has been stolen, or where a client is

unaware that the animal has been implanted with a microchip; veterinary surgeons are encouraged to take appropriate steps to reunite the animal with the owner.

14.15 If it is suspected that the animal is stolen, veterinary surgeons or the owner may involve the police.

Ownership disputes

14.16 An ownership dispute may arise where a client presents an animal with a microchip registered in another person's name.

14.17 Veterinary surgeons should consider the following information if faced with this situation:

Seek prior agreement to disclose
14.18 Practices may wish to obtain express written agreement from clients as a condition of registering with the practice that if the practice discovers the animal is registered to another person, the personal data of the client and details of the animal and its location will be passed on to the person in whose name the animal is registered and/or the database provider.

14.19 A written agreement can be obtained through a standalone consent document. If, however, the practice wishes to obtain this consent on its regular forms, then the relevant terms and conditions stating that the client gives his/her consent must be in bold. The practice must sufficiently draw the clause to the client's attention. This shall be regarded as fair and proper and must be incorporated into the contract between the practice and the client.

Seek consent to disclose
14.20 If there is no prior agreement for disclosure between the practice and the client, the veterinary surgeon should first try to obtain the current keeper's consent to release their personal information (i.e. name/address) to the registered keeper and/or database provider.

14.21 It is likely that consent will be given freely if the registered keeper is aware that the animal is in the possession of the current keeper e.g. the current keeper is caring for the animal.

Failure to obtain consent
14.22 If the current keeper refuses to consent to the release of their personal information to the registered keeper, the veterinary surgeon should contact the registered keeper and/or the database provider and explain that the animal has been brought in by

someone else. However, the veterinary surgeon should *not* release the current keeper's personal information to the registered keeper (or any other third party including the database provider) at this stage.

14.23 If the veterinary surgeon makes contact with the registered keeper and the registered keeper is not concerned that the animal has been brought in by another person, then the veterinary surgeon should still *not* release the current keeper's personal information to the registered keeper or any other third party. Consent will need to be obtained from the registered keeper to change the details on the microchip.

14.24 If the veterinary surgeon makes contact with the registered keeper and/or the database provider and from the conversation discovers that (i) the animal has been reported as stolen; (ii) the registered keeper was not aware that the animal is in someone else's possession; and/or (iii) the registered keeper wants to recover the animal, then the veterinary surgeon may disclose the current keeper's personal information provided he/she is certain and has evidence to support his/her feeling of certainty that such disclosure is necessary for the purposes of any legal or prospective legal proceedings, for the exercise of the legal rights of the registered owner or to enable the registered owner to take legal advice.

a) **Suspected theft/Stolen animal**

In the event that the registered owner and/or database provider tells the veterinary surgeon that the animal is stolen, the veterinary surgeon may inform the registered keeper and/or database provider that he/she will alert the police and provide the police with the current keeper's details. Alternatively, the veterinary surgeon may wish to ask the registered keeper and/or database provider to report the theft. The veterinary surgeon may then disclose appropriate details to the Police or ask for a formal request for disclosure from the Police for this information.

b) **Civil/Ownership dispute**

In some cases, the animal may not have been reported stolen, but the registered keeper still wants to recover the animal. This may be the case where there is a civil/domestic dispute. In these circumstances, the veterinary surgeon should only provide the current keeper's details to the registered keeper if the registered keeper has engaged a lawyer/legal advisor for advice relating to the recovery of the animal. Generally, the safest approach in these circumstances is for veterinary surgeons to disclose the current keeper's details only to the registered keeper's lawyer/legal advisor rather than directly to the registered keeper. The registered keeper's lawyer/legal advisor

should be asked to expressly confirm, in writing, the basis on which they are requesting disclosure.

14.25 It is recommended that these steps are set out in a policy document, which is displayed at the practice so that the process is clear to clients.

Removing microchips

14.26 Because of the importance attached to the accurate identification of animals and the potential for fraud, a microchip must only be removed where this can be clinically justified. This justification should be documented and where required another microchip or alternative method of identification used.

14.27 Removal of a microchip in any other circumstances would be an unnecessary mutilation. While the insertion of a second microchip may be problematic, this in itself does not justify removal of a microchip and an audit trail must be maintained.

Back to Table of Contents

15. VETERINARY TEAM AND BUSINESS

The veterinary team

15.1 Veterinary surgeons working for an organisation or practice have shared responsibilities relating to the provision of veterinary services by the team and business, including the following:

a) Senior veterinary surgeons should ensure any working systems, practices or protocols allow veterinary surgeons to practice in accordance with the TTVA Code of Professional Conduct.

b) Veterinary surgeons who knowingly or carelessly permit anyone to practice veterinary surgery illegally may be liable to a charge of serious professional misconduct.

c) Veterinary surgeons should ensure processes are in place to ensure that professional staff for whom they are responsible are registered, for example, by confirming that they are on the list of registered veterinary surgeons published by the Veterinary Surgeons Registration Board.

d) Veterinary surgeons should ensure support staff for whom they are responsible are competent, courteous, and properly trained. They should ensure support staff are instructed to maintain client confidentiality and to discharge animals only on the instructions of the duty veterinary surgeon, and, do not suggest a diagnosis or give a clinical opinion. Support staff should be advised to pass on any request for urgent attention to a veterinary surgeon and be trained to recognise those occasions when it is necessary for a client to speak directly to a veterinary surgeon.

e) Veterinary surgeons should communicate with colleagues and others within the organisation or practice, to coordinate the care of patients and the delivery of veterinary services.

f) Veterinary surgeons should regularly review work within the team, to ensure the health and welfare of patients; and, ensure that processes are in place to enable changes in practice when indicated.

g) Veterinary surgeons should account, individually or collectively, for medicines (including controlled drugs) obtained for use within the organisation or practice; specific rules apply in certain cases, for example, Named Veterinary Surgeons working within research establishments.

h) Veterinary surgeons should communicate relevant responsibilities, particularly those in relation to the care of animals, to members of the team who are not veterinary surgeons.

i) Veterinary surgeons who have concerns about the competence of a colleague are encouraged to discuss the matter with the senior veterinary surgeon of the practice. If the matter cannot be resolved with such an approach, any concerns should be brought to the attention of the TTVA Discipline and Ethics Subcommittee.

The veterinary business

15.2 Veterinary surgeons may provide veterinary services through various business entities; for example, as limited companies, partnerships or sole practitioners. Veterinary services may be provided from stand-alone premises or those based within other business entities, such as supermarkets or pet superstores.

15.3 Under the terms of Section 5 of the Veterinary Surgeons (Registration) Act Chapter 67:04, only those registered with the Veterinary Surgeons Registration Board are permitted to practice veterinary surgery in Trinidad and Tobago.

15.4 The TTVA jurisdiction applies to each individual veterinary surgeon member registered with the TTVA, whose responsibilities in terms of the Code of Professional Conduct apply, regardless of their employment status within the business entity.

15.5 If a veterinary surgeon provides veterinary services on behalf of an organisation or non-veterinary surgeon, for example, as an employee, the TTVA strongly recommends that the organisation or non-veterinary surgeon should:

a) recognise the professional responsibilities of veterinary surgeons, in particular the responsibilities set out in the TTVA Code of Professional Conduct and supporting guidance issued by the TTVA; and,

b) appoint a senior veterinary surgeon to director or equivalent status within the business, or an appropriate status within a charity, to have overall responsibility for professional matters, including clinical policy guidelines, procedures by which medicines are obtained, stored, used and disposed; and procedures for addressing clients' complaints about the provision of veterinary services.

Back to Table of Contents

16. TREATMENT OF ANIMALS BY UNQUALIFIED PERSONS

Introduction

16.1 The purpose of this guidance is to explain the restrictions that apply under the Veterinary Surgeons (Registration) Act Chapter 67:04 ("the Act") to ensure that animals are treated only by those persons qualified to do so. These restrictions apply where the 'treatment' is considered to be the practice of 'veterinary surgery', as defined by the Act.

16.2 Section 5 of the Act provides, subject to a number of exceptions, that only registered veterinary surgeons may practice veterinary surgery. 'Veterinary surgery' is defined within the Act as 'the art and science of veterinary surgery and medicine' and, without prejudice to the generality of the foregoing, shall be taken to include:

a) the diagnosis of diseases in, and injuries to, animals including tests performed on animas for diagnostic purposes;

b) the giving of advice based upon such diagnosis;

c) the medical or surgical treatment of animals, and

d) the performance of surgical operations on animals.

16.3 A number of exceptions apply which can be found in the Act itself (First Schedule), as well as in the form of specific exemption orders.

16.4 Veterinary surgeons should be aware of the exceptions as they apply, for example, to:

a) the animal owner, who may carry out (minor medical) treatment in accordance with the First Schedule of the Act

b) trained individuals at least eighteen years of age in castration of male animals, and docking of puppies' tails before their eyes are open, in accordance with the rules set out in Parts I and II of the First Schedule of the Act

c) anyone administering emergency first aid for the purpose of saving a life or relieving pain in accordance with the First Schedule of the Act

d) veterinary students who are undertaking the clinical part of their course.

Veterinary students

16.5 Veterinary students, as part of their clinical training, are required to undertake acts of veterinary surgery.

16.6 The TTVA considers that students may examine animals, carry out diagnostic tests under the direction of a registered veterinary surgeon, administer treatment under the supervision of a registered veterinary surgeon and perform surgical operations under the direct and continuous personal supervision of a registered veterinary surgeon.

16.7 The TTVA has interpreted the above terms as follows:

a) 'Direction' means that the veterinary surgeon instructs the student as to the tests or treatment to be administered but is not necessarily present.

b) 'Supervision' means that the veterinary surgeon is present on the premises and able to respond to a request for assistance if needed.

c) 'Direct and continuous personal supervision' means that the veterinary surgeon is present and giving the student his/her undivided personal attention.

Farriers

16.8 Both veterinary surgeons and farriers are involved in the treatment of horses' feet. Farriers are not exempt from the restrictions in the Act, and may not carry out procedures deemed to be acts of veterinary surgery.

16.9 There is no clear demarcation between veterinary surgeons and farriers in the exercise of their professional responsibilities, so that much depends on individuals and the relationship between them. Decisions as to whether a particular procedure should be performed by one or the other are a matter for consultation and cooperation. Veterinary surgeons should make every effort personally to discuss cases with farriers.

16.10 Farriery consists of trimming and balancing the equine hoof prior to and for the fitting of conventional or surgical shoes, and where a veterinary surgeon requires particular work from a farrier, this should be specified in personal contact between them.

16.11 A farrier must not normally penetrate sensitive structures, cause unnatural stress to the animal, make a diagnosis or administer drugs. If he/she feels that either the

veterinary surgeon is treating the animal incorrectly, or that a further condition is present requiring treatment, he should notify the veterinary surgeon or advise the owner to call in the veterinary surgeon. If a veterinary surgeon considers that a farrier's work is inadequate he should contact the farrier directly. Neither should make detrimental comments about the work of the other unless in the course of a formal complaint to their regulatory bodies.

Other complementary therapy

16.12 It is illegal, in terms of the Act, for non-veterinary surgeons, however qualified in the human field, to treat animals. All forms of complementary therapy that involve acts or the practice of veterinary surgery must be undertaken by a veterinary surgeon, subject to any exemption in the Act. At the same time, it is incumbent on veterinary surgeons offering any complementary therapy to ensure that they are adequately trained in its application.

Back to Table of Contents

17. WHISTLE-BLOWING

Introduction

17.1 Veterinary surgeons may consider that they have witnessed inappropriate conduct in the workplace, on the part of a professional colleague or the practice as a whole. Inappropriate conduct may include a breach of the TTVA Code of Professional Conduct for veterinary surgeons, or unethical behavior, for example, false certification, care of an animal which falls far short of the expected standards, or practicing under the influence of drugs or alcohol.

17.2 Following such consideration, a veterinary surgeon may decide to 'blow the whistle' and report the matter.

Reporting inappropriate conduct

17.3 The first consideration in reporting inappropriate conduct is for the veterinary surgeon to consider resolving the matter internally and discuss the concern with the senior veterinary surgeon of the practice. TTVA guidance on the veterinary team and business, states the following:

'Veterinary surgeons who have concerns about the competence of a colleague are encouraged to discuss the matter with the senior veterinary surgeon of the practice. If the matter cannot be resolved with such an approach, any concerns should be brought to the attention of the TTVA Discipline and Ethics Subcommittee.'

17.4 A veterinary surgeon may consider that the matter of inappropriate conduct is particularly serious or may involve senior members of the organisation. The matter may also have been reported internally but remains unresolved. In these circumstances, veterinary surgeons should consider bringing the issue to the attention of the TTVA Discipline and Ethics Subcommittee.

Resolving the matter

17.5 A veterinary surgeon reporting inappropriate conduct internally will need to observe any internal protocol for whistle-blowing, and resolution will be dealt with by the employer. If the matter has been brought to the attention of the TTVA Discipline and Ethics Subcommittee, it is likely that the veterinary surgeon will be asked to submit a formal complaint. If the matter involves allegations of illegal conduct or inappropriate action that comes within the jurisdiction of another regulator or authority, then the

TTVA Discipline and Ethics Subcommittee may advise that the matter also be brought to the attention of the relevant body, for example the police.

17.6 It is important for veterinary surgeons to acknowledge that the TTVA may be unable fully to investigate anonymous complaints.

Client confidentiality

17.7 Veterinary surgeons must also be aware of their duty to keep client information confidential. If reporting inappropriate conduct involves the disclosure of client information, the veterinary surgeon must disclose information only for public interest or animal welfare reasons.

Back to Table of Contents

18. CERTIFICATION

Introduction

18.1 The simple act of signing their names on documents has a great potential for error for veterinary surgeons. A certificate is a 'written statement made with authority', the authority in this case coming from the veterinary surgeon's professional status.

The 11 Principles of Certification

1. A veterinary surgeon should be asked to certify only those matters which are within his/her own knowledge, can be ascertained by him/her personally, or are the subject of a supporting certificate from another veterinary surgeon who does have personal knowledge of the matters in question and is authorised to provide such a supporting document. Matters not within the knowledge of a veterinary surgeon and not the subject of such a supporting certificate but known to other persons, e.g. the farmer, the breeder or the owner, should be the subject of a declaration by those persons only.

2. Neither a veterinary surgeon nor any person described in Principle 1 above should be requested or required to sign anything relating to matters which cannot be verified by the signatory.

3. Veterinary surgeons should not issue a certificate which might raise questions of a possible conflict of interest e.g. in relation to their own animals.

4. All certificates should be written in terms which are as simple and easy to understand as possible.

5. Certificates should not use words or phrases which are capable of more than one interpretation.

6. Certificates should be:
   a. produced on one sheet of paper or, where more than one page is required, in such a form that any two or more pages are part of an integrated whole and indivisible;
   b. given a unique number, with records being retained by the issuing authority of the persons to whom certificates bearing particular numbers were supplied.

7. Certificates should be written in the language of the veterinary surgeon signing them, and accompanied by an official translation of the certificate into a language of the country of ultimate destination.

8. Certificates should identify animals individually except in cases where this is impractical, e.g. day-old chicks.

9. Where appropriate, notes for guidance should be provided to the certifying veterinary surgeon by the issuing authority indicating the extent of the enquiries he/she is expected to make, the examinations he/she is required to carry out, or to clarify any details of the certificate which may require further interpretation.

10. Certificates should always be issued and presented in the original. Photocopies are not acceptable. Provided that:
    a. a copy of the certificate (clearly marked 'COPY') should always be provided to the authority by whom the certificates were issued – see Principle 6 above; and
    b. where, for any good and sufficient reason (such as damage in transit) a duplicate certificate is authorised and supplied by the issuing authority, this must be clearly marked 'DUPLICATE' before issue.

11. When signing a certificate, a veterinary surgeon should ensure that:
    a. he/she signs, stamps and completes any manuscript portions in a colour of ink which does not readily photocopy, i.e. a colour other than black;
    b. the certificate contains no deletions or alterations, other than those which are indicated on the face of the certificate to be permissible, and subject to such changes being initialed and stamped by the certifying veterinary surgeon;
    c. the certificate bears not only his/her signature but also, in clear lettering, his/her name, qualifications and address and (where appropriate) his/her official or practice stamps;
    d. the certificate bears the date on which the certificate was signed and issued and (where appropriate) the time for which the certificate will remain valid;
    e. no portion of the certificate is left blank, so that it could subsequently be completed by some person other than the certifying veterinary surgeon.

General principles of certification

18.2 Given that veterinary surgeons' professional reputations and livelihoods may be at stake if their signatures on certificates are open to challenge, and that they may be presented with certificates that do not conform to all of the 11 Principles of Certification, the TTVA strongly advises veterinary surgeons as follows:

a. **CAUTION –** Before signing any certificate veterinary surgeons must:
    i. scrutinise the document, whatever its title
    ii. be clear as to whom they are responsible in exercising their authority when they sign the document

b. **CLARITY –** Scrutinising the document includes:
    i. reading and understanding any explanatory supporting material;
    ii. checking carefully for any ambiguity, which should be clarified with whoever has issued the certificate;

c. **CERTAINTY –** In considering what they will attest in order to satisfy the obligation of certainty, veterinary surgeons:
    i. must be sure that they attest only to what the best of their knowledge and belief is true;
    ii. do not attest to future events;
    iii. do not recklessly attest to what others have declared or asserted;
    iv. may attest to what another veterinary surgeon has certified. They may also attest to the fact that a declaration or assertion has been made by another person without attesting to its validity.

d. **CHALLENGE –** If they have gone further in what they have attested, they must consider what their defense would be if challenged, and keep appropriate written records made at the time of the decision to sign. For example, if challenged with false certification, could they show:
    i. that he/she did not know of that falsity and that he/she could not with reasonable diligence have obtained knowledge of it;
    ii. that the commission of the offence was due to a mistake or to reliance on information supplied to him/her or to the act or default of another person, an accident or some other cause beyond his/her control; and
    iii. that he/she took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself/herself or any person under his/her control.

18.3 Some documents (for example, forms, declarations, insurance claims, witness statements and self-certification documents) may involve the same level of responsibility even if they do not bear the name of 'certificate'. If the facts are incorrect or misleading, the professional integrity of the veterinary surgeon is called into question. Cases coming before the Discipline and Ethics Subcommittee may arise from allegations of false certification.

18.4 There are three hazards for the veterinary surgeon when 'certifying' in the wider sense:

a. Negligence: a breach of the duty owed to a relevant party with consequent damage. Negligence may arise from a failure to disclose all of the material facts or supplying incorrect information. The consequence may be civil court proceedings.

b. Criminal offences: criminal offenses may be committed under trade descriptions legislation, legislation controlling animal exports and by aiding and abetting a third party. They may include fraud, or knowingly or recklessly supplying false information. Any conviction brought to the notice of the TTVA may be considered in relation to the fitness of the veterinary surgeon to practice.

c. Professional misconduct: even if no criminal charges are brought, an aggrieved party or enforcement authority may make a formal complaint to the TTVA. If the complaint is judged to be justified, penalties may follow.

Additional matters

18.5 Veterinary surgeons may be asked to attest 'to the best of their knowledge and belief.' In these circumstances, veterinary surgeons should exercise caution and attest only to what to the best of their knowledge and belief is true. They should not attest to future events; or recklessly attest to what others have declared or asserted, without giving any apparent thought to the 'Four Cs' outlined above in paragraph 18.2.

18.6 All parts of a certificate or its equivalent should bear the date of the examination or test carried out, vaccination or sample taken, the date of signing the certificate and the name and address of the signatory veterinary surgeon.

18.7 Mistakes on forms/certificates can occur; occasionally, these may be inadvertent. Such mistakes should be rectified as soon as they are identified.

18.8 A veterinary surgeon who acts in an official capacity should only use any official stamp issued to him on official certificates.

Identification of animals

18.9 If an alleged identification mark is not legible at the time of inspection, no certificate should be issued until the animal has been re-marked or otherwise adequately identified.

18.10 When there is no identification mark, the use of the animal's name alone is inadequate. If possible, the identification should be made more certain by the owner inserting a declaration identifying the animal, so that the veterinary surgeon can refer to it as 'as described'. Age, colour, sex, marking, and breed may also be used.

18.11 The owner's name must always be inserted. In the case, for example, of litters of unsold puppies this will be the name of the breeder or the seller.

18.12 Where a microchip or tattoo has been applied it should be referred to in any certificate of identification.

Official certification for the export of live animals and animal products

18.13 If guidance for the completion of these certificates is needed, or when problems are identified, the Chief Veterinary Officer should be consulted.

Back to Table of Contents

19. ADVERTISING AND PUBLICITY

Introduction

19.1 Publicity and advertising may involve many forms with the aim of providing information to others. Veterinary surgeons should ensure that publicity and advertising informs the general public and clients without exploiting their lack of veterinary knowledge.

19.2 Any publicity should not be of a character likely to bring the profession into disrepute, e.g. unsolicited approach by telephone or visit, nor must it compromise the clinical care of animals.

Specialist claims

19.3 Veterinary surgeons must not hold themselves or others as having expertise they cannot substantiate, or call themselves or others a 'specialist' or similar, where to do so would be misleading or misrepresentative.

Public life and interaction with the media

19.4 Veterinary surgeons can make a worthwhile contribution to the promotion of animal welfare and responsible pet ownership by taking part in public life, whether in national or local politics, community service, or involvement with the media (including press, television, radio or the internet).

19.5 In commenting to the media, veterinary surgeons should ensure they distinguish between personal opinion, political belief and established facts.

19.6 A veterinary surgeon should be careful not to express, or imply, that his/her view is shared by their respective profession, unless previously authorised, for example, by the TTVA or another professional body.

Endorsement

19.7 A veterinary surgeon should not endorse a veterinary product or service.

19.8 Endorsement of a product or service may take many forms, for example, celebrity endorsement, where the reputation of the veterinary surgeon is linked with the product

or service; and/or professional, where the professional qualification is associated with the product or service.

19.9 Endorsement can be explicit or implicit, imperative or co-presentational.

19.10 Veterinary products and services may include the supply or prescription of medicines, the diagnosis of disease, the treatment and tests of animals, vaccination services and other activities that may be described as part of the practice of veterinary surgery. In addition, there are a number of retail products that may be sold by veterinary surgeons which may not be readily regarded as veterinary products or services, but when associated with, or sold by, veterinary surgeons may be regarded as 'veterinary' products, particularly if specific veterinary advice is given. These may include nutritional supplements, shampoos, dog leads, chew toys and pet foods, including prescription diets.

19.11 Veterinary surgeons may endorse non-veterinary products and services, provided such endorsement does not bring the profession into disrepute.

Claims of general veterinary approval

19.13 An organisation claiming 'general' veterinary approval for a product or service has particular significance for veterinary surgeons employed by the organisation, which, for example, may be promoting its own range of veterinary products. The organisation will need to be able to justify any such claims made, for example, by market research. Any such endorsement should not erode the clinical freedom of individual veterinary surgeons employed by, or associated with, the organisation, or imply that veterinary surgeons employed or associated with the organisation endorse a veterinary product or service.

Back to Table of Contents

20. GIVING EVIDENCE FOR COURT

Introduction

20.1 Witnesses are an essential part of the legal process, providing factual or opinion evidence. The aim of this guidance is to explain to veterinary surgeons the differences between factual and opinion evidence and the responsibilities associated with acting as either a factual, professional or expert witness. Veterinary surgeons may feel awkward about giving evidence 'against' a colleague or client, but this is to misunderstand the essential role of a witness: to assist a court's determination of the facts and issues.

What is factual evidence?

20.2 The Court's powers to exercise legal sanctions and to apply legal rules depend on the proof of particular facts. The law establishes which facts have to be proven in any given case, by whom and to what standard of proof. These facts are proven by the evidence, usually by testimony evidence (calling witnesses to testify) but also by documentary evidence (evidence contained in a document) and real evidence (which is derived from the physical nature of an object or place and observed upon an examination or visit).

What is the standard of proof?

20.3 The overall legal process of proof in court requires a combination of facts and arguments to prove cases. The rules of evidence and of court procedure draw a distinction between facts, which are proven by the evidence, and arguments, which are advanced later by the advocates in the case. Every allegation in a case must be established to a particular 'standard of proof', which is set by the law, and is generally imposed on the party bringing the case (i.e. the claimant in civil cases, the prosecution in criminal cases). This is called the 'burden of proof'. The standard of proof for civil cases is 'on the balance of probabilities'; the standard of proof for criminal cases is 'beyond reasonable doubt'. The highest civil standard of proof which is tantamount to the criminal standard is 'so as to be sure'.

What is the role of a witness?

20.4 The Court will receive evidence of fact from a witness for consideration in a case. The evidence of a factual witness is usually presented by the witness attending court, swearing an oath (or affirming), and then going into a witness box to give his or her evidence orally in court. Each statement of fact by the witness is evidence of that fact,

and once the evidence has been 'given' on oath, it becomes 'sworn evidence' or 'testimony'.

20.5 A veterinary surgeon may be called as a witness of evidence of fact. This means the veterinary surgeon is being asked to tell the court what he/she personally saw, said or did. This is different from evidence of what another person told them they had seen, done or said which is called 'hearsay evidence'.

What is opinion evidence?

20.6 By contrast, the opinions of lay witnesses are not generally admissible as evidence in Court: this is called 'the rule against opinion evidence'. This rule or these principles are adopted because opinions and conclusions are for the Court to reach, based upon its assessment of the information placed before it: its factual conclusions will be (or should be) based upon the evidence of fact put before it; its legal conclusions will be based on its application of the law to the facts it has found, having regard to the legal arguments put before it by the advocates. Thus a witness of fact should not in ordinary circumstances be asked questions, or offer answers, which require the witness to venture an opinion on a fact in issue. This applies to statements made in preparation for giving evidence in Court as well as when giving evidence in Court, although there are exceptions to this which will be explained below.

When is opinion evidence received in Court?

20.7 Opinion evidence is received when the Court requires additional assistance to form an opinion on, and thereby decide justly, a particular issue which concerns matters of specialised knowledge and expertise.

20.8 The principal exception to the general rule excluding evidence of a witness's opinion is in respect of 'expert evidence' given by an Expert Witness. This opinion evidence may be admitted provided the court is satisfied that the witness is qualified to give that opinion by relevant learning and experience. These witnesses often play an important role in cases involving veterinary science. See paragraphs 20.12 to 20.16 below.

20.9 There are also instances where the opinion evidence of a professional witness to fact will be accepted. See paragraphs 20.10 and 20.11 below.

What is a professional witness?

20.10 A 'professional witness' is one who by reason of some direct professional involvement in the facts of a case is able to give an account of those facts to the court. Thus a professional witness is a **witness of fact**, who is also professionally qualified. This factual evidence is admitted when the facts in question are relevant to an issue which the court is to decide.

20.11 However, there will also be occasions when a professional witness of fact will be asked by an advocate or by the court to explain the reasoning which underlay his/her findings made or actions taken in respect of a given animal. This will most commonly arise where the witness was a treating clinician, and the professional witness in these circumstances (and subject to the court's permission) will be able to give an answer which involves evidence of opinion. As to this situation see further below.

What is an expert witness?

20.12 An expert is anyone with knowledge or experience of a particular field or discipline beyond what is expected of a layman. An expert witness is a person who is qualified by his or her knowledge, experience or formal qualifications, to give **an opinion** to a Court on a particular issue to assist the Court in deciding the matter or case before it.

20.13 The evidence that expert witnesses can give is called 'expert opinion evidence' and this evidence is used and admitted where the Court lacks competence due to a lack of necessary expertise. The expert witness's primary responsibility or overriding duty is to the Court, even if they are called and paid for by one of the parties to the case. This leads to an expert witness sometimes being referred to as an 'independent'. The expert witness is usually asked to provide a report and may also be called to give evidence, on behalf of the instructing party, in Court. Nevertheless they must remain independent of their party's vested interest.

20.14 Often, academic eminence in the relevant field is useful, as is an impressive set of qualifications and past relevant experience. However, in modern court cases an expert witness is also expected to have a sound and practical knowledge of the subject matter, based on actual clinical or practical experience, which is preferably ongoing at the time of the court case, or the time of the incident. The expert witness may be subjected to cross examination in the witness box of their self-professed standing as an 'expert' on the subject matter in dispute. The easiest way for an advocate to seek to discredit a 'retired' clinician undertaking expert witness work is to ask and elucidate the date on which they last carried out the procedure in question, or treated the condition in question, to find that the answer is "some years ago". The expert witness should be

prepared to deal with such questions and should not undertake expert witness work unless they have the relevant expertise and ongoing or recent experience.

20.15 Other qualities of a good expert witness include self-confidence and the ability to inspire and command confidence in others, particularly in the witness box; the ability to give a concise opinion which can be understood by lay people and, the ability quickly and promptly to adapt to changing information.

20.16 Generally, expert witnesses are sent all relevant reports and witness statements for the purpose of compiling their expert report and will hear all the evidence before giving their expert evidence.

Guidance for writing an expert report

20.17 It is important to remember, as an expert witness, that although you will be retained by your client (or clients), your primary duty is to the Court and that you are expected to remain objective, impartial, independent, and to act with integrity. You must not compromise on these matters, or act where there is an actual or potential conflict of interest unless this conflict is disclosed. An expert witness is also under a duty to maintain confidentiality.

20.18 The content of the expert's report will depend on the purpose for which it is prepared, but it should aim to be a clear, precise and convenient resource of information. Experts' reports are used to provide advice as to the merits of a case as well as for the purpose of disclosure in proceedings. In both instances the report is intended to assist non-experts (including the judge and advocate (counsel/barrister/solicitor-advocate)) in understanding the matter in issue from a technical, clinical or scientific point of view. The report may provide the stimulus for pursuing a claim; it may form the basis for drafting the statements of case/statements of claim on which claims are based, or it may provide material for cross examination at trial. An expert's report may be disclosed to the opposing side, either before proceedings are issued or afterwards, at which point the report's author may be called upon to answer and address the opposing side's challenges to the opinions expressed in the report.

20.19 There are certain minimum requirements for an expert's report to be acceptable to a court in civil proceedings. For example:

a) the report should be addressed to the Court not the client;

b) it should contain an expert's statement of truth/declaration and qualifications;

c) if a range of opinion on a particular issue exists and it is relevant to the matter in hand, this should be referred to and addressed;

d) relevant sources of evidence or literature cited or relied upon should be included in a bibliography;

e) any technical terms used should be explained; matters of fact should be clearly distinguished from matters of opinion.

20.20 The exact layout of the report is left to the practice of the individual expert, but the report must state the expert's name, the name of the party instructing them, the date of the report, include an expert's declaration and statement of truth and be signed by the expert. A good basic format is to have:

a) a cover sheet (with identification information)

b) a table of contents

c) a summary of conclusions (this may come at the start or the end of the report)

d) a summary of instructions

e) a list of documents or evidential sources

f) a chronology (if appropriate for the case) or a factual summary

g) a technical section (to permit a lay person reader to understand the opinion and summary of conclusions sections)

h) an opinion section

i) a brief curriculum vitae of the expert's qualifications and experience

j) a bibliography of literature (if any literature or works of reference are cited or relied upon)

k) a paginated sequence of numbered and headed sections composed of short, suitably headed paragraphs.

What is the difference between an expert witness and a professional witness?

20.21 An expert witness is asked **to provide an expert opinion** in respect of a particular set of facts or on a particular issue. A professional witness is asked **to testify solely on the observed facts** of the matter or particular issue. However, (as indicated above) there is a 'grey area' which arises because the professional witness, in the course of carrying out his or her professional role, will have formed a professional opinion based on the observed facts, e.g. a view as to the patient's condition or a possible diagnosis following a clinical examination is such an opinion. A 'professional witness' should be aware that when providing testimony of fact they should only testify as to the observed facts, but that they could be led by others, either a prosecutor or advocate, into giving an opinion, and straying into expert territory. If this happens then the 'professional witness' should seek clarification, perhaps from the judge, as to whether or not they may answer these questions. A witness gives either evidence of fact or opinion evidence and there is no category of professional evidence.

20.22 A veterinary surgeon who is asked to prepare a report should establish whether the report is required from them as a professional witness (of fact) or as an expert witness. Generally, 'professional witnesses' should avoid giving opinions on the central issue in the case, or accept that they are acting as an expert witness.

20.23 If a 'professional witness' gives an opinion on the central issue in a case (for example, that the animal is suffering unnecessarily, or is likely to suffer unnecessarily, or the animal's needs have not been met) he or she should:

a) Consider all the relevant facts available in the case, for example, the animal owner's explanation, whether food or treatment has been given, the results of any post mortem, other laboratory evidence or test results etc; as well as what evidence may be necessary before an opinion can be properly given; and update the opinion as additional information becomes available.

b) Include in the witness statement the facts on which the opinion is based; the experience or qualification in addition to the veterinary degree and registration with the TTVA; any other literature or material relied upon in giving the opinion; any alternative veterinary views which may reasonably be held; acknowledgement that the primary responsibility is to the court for a person giving opinion evidence (an expert).

c) Disclose to the party instructing him or her, any relationship with any other party in the case, including the prosecuting organisation or relevant enforcement authority which could give rise to a conflict of interest.

Remaining within one's expertise

20.24 It is good clinical practice to remain within the scope of one's expertise. The same applies when undertaking both professional witness and expert witness work. Both types of witness should be aware of being drawn or pressured into giving evidence or expressing opinions which are beyond their level of experience or expertise. Professional and expert witnesses can expect to be challenged in the witness box if they stray outside their own expertise, and should be firm and clear (both with those instructing them and the Court) as to the boundaries of their expertise and experience. A failure to remain within one's expertise when acting as a professional or expert witness could also potentially lead to disciplinary proceedings.

20.25 When faced with such a situation, just as in clinical practice, the veterinary surgeon should defer to a more senior or more experienced colleague, or to another source of form of expertise. The circumstances in which such a situation can arise may be less than clear cut. For example, whereas most veterinary surgeons may consider themselves competent to state whether or not a dog was emaciated, the same may not be said for an emaciated horse; it may not always be clear to a non-specialist veterinary surgeon that a particular species of animal is suffering distress in a particular set of circumstances.

When should evidence be collected?

20.26 It may not always be clear from the outset of a clinical case that evidence (in the form of samples) should be collected and retained. Veterinary surgeons should be alive to the possibility of a clinical case developing into a legal case, whether criminal (e.g. poisoning) or civil (e.g. negligent misdiagnosis), and, if suspicious or unsure, veterinary surgeons should consider collecting and retaining samples, with the consent of the owner of the animal or the person in control or possession of the animal. Apart from assistance from more senior colleagues, veterinary surgeons are advised to consider contacting the police, TTSPCA or local authority officers if they are unsure about whether to collect evidence.

How to take evidential samples

20.27 To be of any evidential use in a legal case, the source or provenance and the whereabouts of the samples must be recorded to ensure there is 'continuity of evidence'. This applies to the collection, handling and dispatch of samples. Practically speaking this means knowing and being able to state where the sample has been and how it has been stored from the moment it was taken. Taking these precautions will

minimise the risk that the evidence could be subsequently challenged (as having been contaminated or tampered with) and rejected.

20.28 The samples must also be appropriately collected, labeled and stored. The appropriate method of collection and storage depends upon the nature of the sample. Diagnostic laboratories will be able to give some assistance as to how samples should be collected, sealed and stored.

20.29 As a minimum, the sample should be labeled with the case name or other unique identification and the date of collection. In some cases two, or even three, identical samples should be collected, labeled separately and stored.

The analysis of the samples

20.30 Consideration should always be given to sending the samples for analysis to quality-controlled external laboratories, rather than attempting to conduct analysis using in-house equipment or inexpert staff. Again, this precaution will minimise the risk that the evidence could be subsequently challenged as inconclusive or incorrect.

Back to Table of Contents

ACKNOWLEDGEMENTS

The **Trinidad and Tobago Veterinary Association** wishes to sincerely thank the **Royal College of Veterinary Surgeons** for allowing the use of the RCVS Code of Professional Conduct for Veterinary Surgeons as the template for this document.

Discussion and editing of the document was done by the TTVA Discipline and Ethics Subcommittee (2012 – 2014): Marc Driscoll, Michelle Mellowes, Curtis Padilla (chairman), Hatto Pidduck, and Wade Seukeran.

First release: