

Communicating with clients—**informed consent**

Those who write about malpractice, whether human medical, veterinary medical, or legal, point out that a prime cause of such litigation is failure of the professional person to explain and inform. A physician or veterinarian is especially vulnerable if a surgical treatment that was not discussed with the patient or client is undertaken and there is a bad result. It does not matter that the doctor met an acceptable standard of care and treatment; what matters is that the patient or client did not know the procedure was going to be undertaken or was not informed of the risk involved. The doctor's attitude should be one of encouraging, not brushing off questions by the patient or client.

What is meant by "informed consent"? It means agreement by the client to a course of treatment or surgery after receiving enough information from the veterinarian to make an intelligent decision. Especially important is information about the risk involved and appropriate alternative treatments.

If a client rejects the veterinarian's proposals (because of cost or other reasons) and proposes something different that the veterinarian does not consider feasible, the veterinarian should refuse treatment.

How detailed should a veterinarian's explanation be? The answer to this question depends on the veterinarian's understanding of the client. Clients with a great affinity for a companion animal and who have excitable emo-

tional reactions present a problem different from a practical livestock farmer who wants to know how to cure or save animals. Also, clients vary in their ability to understand what they are told. Thus, the veterinarian must be guided by his or her appraisal of this ability.

Providing an adequate explanation to a client, especially about the possible adverse effects of proposed medication, requires that the veterinarian learn as much as possible about the effects of using a particular drug. Not knowing about and not explaining a possible adverse effect understood by other veterinarians could lead to a malpractice action. When a package is broken and the information on a label is not available to a client, the veterinarian has a duty to give the client essential information about a prescription product.

Although there may be a fine line between optimism the veterinarian might wish to instill in a client and promising a cure, it is well understood that a veterinarian should not do the latter. Not fulfilling a promise could lead to the same result as performing a surgical procedure without the client's informed consent—namely, that a malpractice action could follow, even though the veterinarian was not negligent in treatment.

Regardless of any theories of human-animal relationships, animals are regarded as the property of the owner; thus, despite the veterinarian's opinion, euthanasia should not be performed without the client's consent. Also, following this property concept, the body of an animal should not be disposed of by the veterinarian

without the consent of the owner. The owner has a right to reclaim the body, unless it died of a contagious disease and there are disposal rules that would forbid such.

When unforeseen conditions are encountered, especially during surgery, and immediate action is necessary to save the life of the animal or to avoid a future operation, the veterinarian will be excused from obtaining informed consent. However, if the discovery is not so critical that it would preclude client contact, then an attempt should be made to reach the latter before performing additional surgery.

In human medicine, there is some support for the view that informed consent applies only to surgery. This view was adopted reluctantly by a Pennsylvania Appeals Court that held that administering a nerve block to eliminate pain from fractured ribs did not require informed consent. In *Morgan v McPhail*, 672 A.2d 1359 (Penn Super Ct 1995), the court remarked that, in its opinion, the rules should be changed but, in face of earlier decisions, was reluctant to do so. The better view is that informed consent is not confined to surgical procedures. Administration of drugs and performance of any procedure that would involve a substantial risk should fall under the informed consent rule.

When a veterinarian treats or euthanatizes animals at the scene of an accident and there is an "animal Good Samaritan Law" relieving the veterinarian from liability except for "willful and wanton" conduct, informed consent is not required. However, if the owner is present or appears on the scene before the veterinar-

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ian treats the animal and communication is possible, the Good Samaritan Law would no longer apply.

Admission forms that purport to give the veterinarian the right to do whatever is deemed necessary and that contain exculpatory language for the veterinarian and clinic employees do not

excuse a veterinarian from obtaining informed consent. Consent forms that are more specific and signed by the client afford greater protection to the veterinarian, but such forms assume some knowledge on the part of the client and may be of limited value if a situation not covered by the form arises.

Issues involving informed consent loom large in human malpractice litigation, and these same issues exist for the veterinary profession. Determining how much or how little to tell a client has always been a problem for veterinarians. If a veterinarian is to err, it should be on the side of too much, rather than too little.



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