

LVM: Session 4

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In this lecture, we'll start with these two hypotheticals:

1. A groomer calls and asks you questions about a certain pet's medical records. Do you give out the information?
2. Another veterinarian calls you and asks about a former client. You recall that that client failed to pay your bill. Can you disclose this?

We'll discuss a range of issues centering on your related obligations to (1) disclose certain information even as you (2) maintain confidentiality regarding communications and records.

We'll also engage the legal and practical issues raised by the problem of consent. We'll look at communication issues and their importance in avoiding suits. And we'll ask why does it matter who owns the dog?

1. Summary: Disclosure and Confidentiality Materials

General Comments: Veterinarians have very important obligations to reveal certain kinds of information (we'll call these "disclosure obligations") *and* very important obligations *not to reveal* various kinds of information (we'll call the latter "confidentiality obligations"). Balancing these competing obligations is an important skill to learn.

Disclosure: For legal and ethical reasons, you are obligated to disclose certain information to potential clients, clients, various state agencies and bodies, and others.

You will learn in our discussion of contract and tort law that you must, when making representations to anyone, refrain from misrepresenting facts. But beyond this normal obligation that every citizen has, professionals have special obligations to disclose information to various people. This is what is meant when we talk about "disclosure obligations."

There is a trend today toward requiring ever greater disclosure—you might think about it this way—what is it that *you* want to know when buying a product or getting a service, especially if that product or service affects a loved one (and most people put their cat or dog in this category)? Corporations are beginning to provide more information—Pfizer announced at the 2006 annual AVMA convention its "Frank Veterinarian-Client Communication Initiative"—this program (described on the front page of *Veterinary Practice News*, April 2006) "includes an awareness campaign to encourage veterinarians to communicate better" and includes "various communication aids, including new, easier-to-read owner information sheets for Pfizer's key products." Pfizer conducted extensive focus groups in preparation for this initiative. Among their study's conclusions were "Veterinarians generally believe they communicate better than they actually do" and "Veterinarians are more comfortable discussing cost concerns than treatment risks" (the quotes are from page 2 of the VPN article).

Given the increased emphasis on disclosure and the importance of informed consent (an all-important concept, as you will see), you should work hard to understand the licensed veterinarian's important obligations to disclose.

Confidentiality: Even though in many situations veterinarians have a legal and ethical obligation to disclose information to clients and others, there remain extremely important **limitations on a veterinarian's ability to disclose without legal liability**. So part of our time will be spent determining why and when confidentiality is important to a veterinarian.

Some general categories we will work with are:

- **pre-treatment disclosures required by strictly legal considerations**
- **after-the-fact or post-problem disclosures required by law and society**
- **disclosures required by professional ethics**
- **disclosures one feels to be required by one's personal ethics**
- **confidentiality of records**
- **confidentiality of communications**

In some of these areas, there are established rules. In other areas, the principles one might use to sort out complex fact situations and to resolve conflicting demands are not formally established by a body with the authority to discipline you.

2. Readings and Resources

- Summary: Disclosure and Confidentiality Materials
- JAVMA, May 1, 2004, "The informed consent doctrine: what veterinarians should tell their clients"
- JAVMA, November 15, 2002, "Modern elements of informed consent for general veterinary practitioners"
- JAVMA, August 1, 2006, "Laws and regulations concerning the confidentiality of veterinarian-client communication"
- JAVMA, July 1, 2001 article, "Communications, privilege, and the veterinarian"

2.1 Recommended Readings

- AVMA PLIT Question/Answer 205 re providing a pet's medical records to an unhappy client and Standard Consent Form from AVMA PLIT (2001) and AVMA PLIT Question/Answer 211 re importance of consent forms (the AVMA's contact information is as follows—their general number is 800-228-PLIT (7548); the fax number, through which you can obtain very helpful documents in the Frequently Asked Questions series, is 888-PLIT-FAX (754-8329); and their email address is avmaplit@hubinternational.com. Importantly, you do *not* have to

choose this insurer to take advantage of fax-available information offered by AVMA PLIT.

- JAVMA, April 1997, "Who owns the animal?"