



POSITION STATEMENT

Reporting Suspected Animal Abuse or Neglect

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Key Words:	abuse, neglect, distress, obligation, report, liability
Related Topics:	professional conduct, record keeping
Legislative References:	<i>Veterinarians Act R.S.O. 1990</i> , O. Reg. 1093, Section 17. <i>Ontario Society for the Prevention of Cruelty to Animals Act</i> : http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90o36_e.htm Ontario Regulation 60/09: Standards of Care (<i>under OSPCA Act</i>) See Appendix 1.
College Contact:	Registrar
Reference Materials:	CVMA material on Animal Abuse, including Recognition and Reporting of: http://canadianveterinarians.net/animal-abuse.aspx Tufts Animal Care and Condition (TACC) Scales: http://www.tufts.edu/vet/hoarding/pdfgallery2.htm OSPCA Branch Directory: http://ontariospca.ca/8-branch.shtml

College publications contain practice parameters and standards which should be considered by all Ontario veterinarians in the care of their patients and in the practice of the profession. College publications are developed in consultation with the profession and describe current professional expectations. It is important to note that these College publications may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.

Purpose

The purpose of this Position Statement is to provide members of the College of Veterinarians of Ontario with the College's interpretation of Regulation 1093 under the *Veterinarians Act* in light of the revised *Ontario Society for the Prevention of Cruelty to Animals Act*—specifically, the clause in that Act that requires veterinarians to report suspected abuse or neglect of animals, whether they are patients or not.

Scope

This Position Statement applies to all licensed veterinarians in Ontario.

Background

Under section 17 in Regulation 1093 of the *Veterinarians Act*, Ontario veterinarians have always been permitted to reveal information concerning a client, animal, or professional service performed for an animal in cases where it appears that the animal has been abused. Such reporting was not made mandatory in the Act.

However, on March 1, 2009, a Bill revising the *Ontario Society for the Prevention of Cruelty to Animals Act* was proclaimed into law; this Act now requires veterinarians to report cases where there is reason to suspect animal abuse or neglect. The clause wherein this requirement appears is as follows:

Veterinarians' obligation to report

11.3. Every veterinarian who has reasonable grounds to believe that an animal has been or is being abused or neglected shall report his or her belief to an inspector or an agent of the Society.

Position Statement

Requirement to Report

As stated in sec. 17(1) 6.iv, of Regulation 1093 under the *Veterinarians Act* (in Part II: Practice Standards, section 17), which might be referred to as the “confidentiality provision,” it is professional misconduct if a veterinarian releases personal information about clients and/or patients without permission, except

- i. with the consent of the client,
- ii. **when required to do so by law,**
- iii. to prevent, or contribute information for the treatment of, a disease or physical injury to a person,
- iv. **when it appears that the animal has been abused,** or
- v. for the purpose of identifying, locating or notifying the apparent owner of the animal, protecting the rights of the apparent owner or enforcing applicable laws in respect of the animal, where it appears that the animal is not owned by the person presenting it for treatment. **(emphasis added)**

While subsection (iv) has always allowed veterinarians to report suspected animal abuse or neglect, and while subsection (ii) has always required the release of information when a warrant, court order, or subpoena is presented to a veterinarian, the new *OSPCA Act* makes it a legal requirement for veterinarians not only to release personal client information when abuse or neglect is suspected, but also to report the belief itself.

This requirement means that veterinarians in Ontario are now legally and ethically required to actively participate in the protection of animals from abuse and neglect in the public interest. The College position therefore is that *failure to report suspected animal abuse or neglect may constitute professional misconduct*.

Definitions

In the *OSPCA Act*, “abuse” and “neglect” are not defined; they form part of the scope of the distress of an animal, but it appears that an animal can be in distress without there necessarily being “abuse” and “neglect.” In other words, abuse and neglect are causes of an animal’s distress, but they are not the only possible causes.

Distress

The word “distress” is defined in the *OSPCA Act* as follows:

- 1. (1)** “distress” means the state of being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect;

According to the Act, those having custody or care of an animal are not permitted to cause or permit an animal to be in distress, as that could amount to “abuse” or “neglect.” Ontario Regulation 60/09 under the *OSPCA Act* prescribes Standards of Care that are intended to establish the basic responsibilities of animal ownership or custodianship, such that compliance with the Standards would preclude owned animals from falling into a state of distress (see Appendix). These standards include the requirement that animals be provided with adequate and appropriate food and water, and with adequate and appropriate medical attention.

It will remain up to the judgment of the individual veterinarian to determine, based on his/her professional assessment, if there is evidence that the standards of care are being met, and to determine in a given circumstance what medical attention is adequate and appropriate for preventing undue or unnecessary hardship, privation or neglect.

Abuse and Neglect

The Oxford English Dictionary (OED) defines the noun “abuse” as “cruel and violent treatment,” and the adjective “abusive” as “involving cruelty¹ and violence.” *Saunders Comprehensive Veterinary Dictionary*, 3rd edition, states that abuse “often stops short of cruelty in a legal sense but can be classified as harassment...[it] includes physical cruelty by assault, by deprivation of adequate food, water, transport and shelter, and proper care during illness pregnancy and parturition, and participation in sporting events at a level beyond the animal’s capacity to perform.”

The verb “neglect” is defined in the OED as “fail[ing] to give proper care or attention to,” and the noun is defined as “the state of being neglected” or “the action of neglecting.”

In this document, “abuse” is considered to be an overt act of cruelty and/or violence causing distress; “neglect” is considered to be the failure to act appropriately to relieve distress.

¹ “Cruelty” is an offence under the Criminal Code of Canada.

Making the Assessment

Reasonable Grounds

The *OSPCA Act* requires veterinarians to report a belief that an animal has been abused or neglected if that belief is based upon “reasonable grounds.” “Reasonable grounds” for the belief do not have to arise from first-hand information, but may be based on a detailed report. The *OSPCA* interprets “reasonable grounds” to mean “facts or circumstances which would cause a person of ordinary and prudent judgment to have a strong belief beyond a mere suspicion, but less than a certainty.” In the context of veterinary medicine, the College interprets “reasonable grounds” to include information acquired in the course of assessing an animal/herd and/or of discussing an animal’s/herd’s health with its custodian/caregiver or other individual that could lead a veterinarian to suspect abuse or neglect, including (but not limited to) the following:

- presentation of non-accidental injuries;
- conflicting or unrealistic explanations of how injuries occurred;
- delays in obtaining veterinary care or treatment for serious problems;
- physical signs of neglect (such as severely matted hair, untrimmed nails/hoofs, malnourishment, infected wounds, or presence/smell of excrement); and
- refusal to treat or euthanize when animal is suffering or in pain.

When to Report

Veterinarians are therefore expected to be able to identify when abuse and/or neglect might be occurring by recognizing

1. when an animal is in distress, and
2. when the custodian or caregiver is either causing it via abuse or not taking appropriate measures to address it through neglect.

When these two conditions are met—whether the animal is a patient of the veterinarian or not—veterinarians are required by law to report his/her belief that abuse and/or neglect may be occurring to the *OSPCA*, which will investigate the matter.

In cases of neglect by a client, it is recommended that veterinarians first explain that the animal’s condition will be considered one of neglect if not addressed appropriately, in order to allow him/her the opportunity to relieve the animal’s current (and prevent any future) distress through client education. It is critical that veterinarians record advice and recommendations given to such a client in the medical record.

Clients’ Refusal to Take Action

The College recognizes the tension between the facts that veterinarians recommend treatments that will be of financial benefit, and that clients may decline treatment recommendations due to cost.

To ensure there is no conflict of interest, veterinarians should report clients who decline recommendations and/or refuse to consent to treatment of their animal(s) only if

- lack of treatment will cause distress to the animal as defined in the *OSPCA Act*, and
- the client has indicated that he/she will not consent to or seek treatment for the animal under any circumstances, including making alternative financial arrangements.

Veterinarians must remember that reports are to be made in good faith and for the protection of the animal only.

Failure to Report

Since the law now requires veterinarians to report cases of suspected abuse or neglect, veterinarians who fail to report such cases may be investigated for potential professional misconduct. Failure to follow the law as per the *OSPCA Act* may therefore constitute:

- “Conduct unbecoming a veterinarian” (Regulation ss. 17.45);
- “An act or omission relevant to the practice of veterinary medicine that, having regard to the circumstances, would be regarded by members as disgraceful, dishonorable or unprofessional” (Regulation ss.17.44);

If a case involving failure to report goes to the Discipline Committee, one of the findings could also be “serious neglect” as defined in the *Act*: “A member or former member of the College shall be found guilty of serious neglect by the Discipline Committee if the member or former member has displayed in his or her professional care of an animal a lack of knowledge, skill or judgment **or disregard for the welfare of the animal** of a nature or to an extent that demonstrates the member or former member is unfit to engage in the practice of veterinary medicine or is fit to engage in the practice of veterinary medicine only subject to the conditions and limitations imposed by the Discipline Committee” (*Veterinarians Act* Sec 30[4]; **emphasis added**).

Reports Made in Good Faith

The immunity clause in the original *OSPCA Act* has been retained in the new *Act* and states the following:

Inspector, etc., not personally liable

19. No inspector or agent of the Society and no veterinarian or member of the Board is personally liable for anything done by him or her in good faith under or purporting to be under the authority of this Act.²

While the College cannot grant veterinarians immunity from complaints made to the College, since all complaints received must be managed according to the process defined in the *Veterinarians Act*, the Complaints Committee will consider the fact that a report has to be made whenever a veterinarian has reasonable grounds to believe that there is or has been abuse or neglect, even if it ultimately turns out that this was not the case.

Steps to Take in Cases of Suspected Abuse or Neglect of Patients

Wherever possible,

- Document all aspects of the encounter(s) in the medical record factually and in detail, including advice given and all communication with the client/owner.
- Record a complete physical description of the animal(s).
- Obtain a thorough history of both the presenting complaint and of previous health issues.
- Perform a complete physical examination (or necropsy, if applicable), if possible, and record all findings, including details about the animal’s behaviour.
- Take photographs and images of tissues examined during necropsy, as applicable.
- Perform appropriate diagnostic tests.

² The College cannot give legal advice to veterinarians about their civil liability. Veterinarians should discuss any concerns or questions about this clause in the *OSPCA Act* with their own legal counsel.

- When issues cannot be resolved through client education or there appears to have been abuse or neglect, report the case to the OSPCA in a timely manner (see below); ensure date, times and individuals involved in the conversation/report are also documented in the medical record.³

How to Report

Veterinarians should contact their nearest OSPCA branch to make an official report of suspected animal abuse or neglect. For locations and contact information, go the OSPCA website directory at <http://ontariospca.ca/8-branch.shtml>.

The OSPCA Provincial Office Hotline is: **1-888-ONT-SPCA (668-7722)**. For an emergency after regular business hours, dial extension **#1**.

³ For further suggestions, veterinarians might wish to refer to the CVMA's information on collecting and documenting evidence (<http://canadianveterinarians.net/animal-abuse-collecting-physical.aspx>) and/or the Tufts Animal Care and Condition Scale (<http://www.tufts.edu/vet/hoarding/pdfgallery2.htm>) when making assessments on suspected cases of abuse and neglect. From the Tufts website: "This easy-to-use body scoring system was developed with the MSPCA and field tested extensively by the Fort Wayne (Indiana) Dept of Animal Care and Control. The TACC system is intended to standardize and simplify the triage of large numbers of neglected animals during a rescue situation. It is widely used and has been published in several journals and a textbook."

Relevant Legislation

From the Veterinarians Act

Professional misconduct

(3) A member or former member of the College shall be found guilty of professional misconduct by the Discipline Committee if,

- (a) the member or former member has been found guilty of an offence relevant to the suitability to practise veterinary medicine, upon proof of such finding;
- (b) the member's or former member's rights or privileges related to the practice of veterinary medicine under an Act of the Parliament of Canada or of the Legislature of Ontario, other than this Act, or the regulations thereunder, have been restricted or withdrawn, unless by the request of the member or former member, upon proof thereof;
- (c) there has been a finding of professional misconduct or serious neglect, or a like finding, against the member or former member by a veterinary authority in another jurisdiction, upon proof of such finding; or
- (d) the member or former member has been guilty in the opinion of the Committee of professional misconduct as defined in the regulations.

Serious neglect

(4) A member or former member of the College shall be found guilty of serious neglect by the Discipline Committee if the member or former member has displayed in his or her professional care of an animal a lack of knowledge, skill or judgment or disregard for the welfare of the animal of a nature or to an extent that demonstrates the member or former member is unfit to engage in the practice of veterinary medicine or is fit to engage in the practice of veterinary medicine only subject to the conditions and limitations imposed by the Discipline Committee

From Regulation 1093, Part II: Practice Standards (under *The Veterinarians Act*)

17. (1) For the purposes of the Act, professional misconduct includes the following:

1. An act or omission inconsistent with the Act or this Regulation.
2. Failing to maintain the standard of practice of the profession.
3. Failing to fulfil the terms of an agreement with a client.
4. Failing to continue to provide professional services to an animal until the services are no longer required or until the client has had a reasonable opportunity to arrange for the services of another member.
5. Failing to provide within a reasonable time and without cause any certificate or report requested by a client or his or her agent in respect to an examination or treatment performed by the member.
6. Revealing information concerning a client, an animal or any professional service performed for an animal, to any person other than the client or another member treating the animal except,
 - i. with the consent of the client,
 - ii. when required to do so by law,

- iii. to prevent, or contribute information for the treatment of, a disease or physical injury of a person,
- iv. when it appears that the animal has been abused, or
- v. for the purpose of identifying, locating or notifying the apparent owner of the animal, protecting the rights of the apparent owner or enforcing applicable laws in respect of the animal, where it appears that the animal is not owned by the person presenting it for treatment.

From the OSPCA Act

Interpretation

1. (1) “distress” means the state of being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect;

Veterinarians’ obligation to report

11.3. Every veterinarian who has reasonable grounds to believe that an animal has been or is being abused or neglected shall report his or her belief to an inspector or an agent of the Society.

Inspector, etc., not personally liable

19. No inspector or agent of the Society and no veterinarian or member of the Board is personally liable for anything done by him or her in good faith under or purporting to be under the authority of this Act.

From Ontario Regulation 60/09 (under the OSPCA Act)

STANDARDS OF CARE

Application

- 1. (1)** The basic standards of care applicable to all animals are set out in section 2. O.Reg. 60/09, s. 1 (1).
- (2)** In addition to the basic standards of care applicable to all animals set out in section 2,
 - (a) standards of care specific to dogs that live primarily outdoors are set out in section 3; and
 - (b) standards of care specific to wildlife kept in captivity are set out in sections 4 and 5. O.Reg. 60/09, s. 1 (2).
- (3)** In addition to the basic standards of care applicable to all animals set out in section 2 and the standards of care specific to wildlife kept in captivity set out in sections 4 and 5, the standards of care specific to primates kept in captivity are set out in section 6. O. Reg. 60/09, s. 1 (3).
- (4)** A requirement that a standard of care be adequate and appropriate or necessary is a requirement that the standard of care be adequate and appropriate or necessary to the specific animal, having regard to its species, breed and other relevant factors. O. Reg. 60/09, s. 1 (4).

Basic standards of care for all animals

- 2. (1)** Every animal must be provided with adequate and appropriate food and water. O. Reg. 60/09, s. 2 (1).
- (2)** Every animal must be provided with adequate and appropriate medical attention. O. Reg. 60/09, s. 2 (2).
- (3)** Every animal must be provided with the care necessary for its general welfare. O. Reg. 60/09, s. 2 (3).
- (4)** Every animal must be transported in a manner that ensures its physical safety and general welfare. O. Reg. 60/09, s. 2 (4).
- (5)** Every animal must be provided with an adequate and appropriate resting and sleeping area. O.Reg 60/09, s. 2 (5).

(6) Every animal must be provided with adequate and appropriate,

- (a) space to enable the animal to move naturally and to exercise;
- (b) sanitary conditions;
- (c) ventilation;
- (d) light, and;
- (e) protection from the elements, including harmful temperatures. O. Reg. 60/09, s. 2 (6).

(7) If an animal is confined to a pen or other enclosed structure or area,

- (a) the pen or other enclosed structure or area, and any structures or material in it, must be in a state of good repair;
- (b) the pen or other enclosed structure or area, and any surfaces, structures and materials in it, must be made of and contain only materials that are,
 - (i) safe and non-toxic for the animal, and
 - (ii) of a texture and design that will not bruise, cut or otherwise injure the animal; and
- (c) the pen or other enclosed structure or area must not contain one or more other animals that may pose a danger to the animal. O. Reg. 60/09, s. 2 (7).

(8) Every animal that is to be killed must be killed by a method that is humane and minimizes the pain and distress to the animal; an animal's pain and distress are deemed to be minimized if it is killed by a method that produces rapid, irreversible unconsciousness and prompt subsequent death. O. Reg. 60/09, s. 2 (8).

Standards of care for dogs that live outdoors

3. (1) Every dog that lives primarily outdoors must be provided with a structurally sound enclosure for its use at all times. O. Reg. 60/09, s. 3 (1).

(2) The enclosure must be weather-proofed and insulated. O. Reg. 60/09, s. 3 (2).

(3) The size and design of the enclosure must be adequate and appropriate for the dog. O. Reg. 60/09, s. 3 (3).

(4) A chain, rope or similar restraining device used to tether a dog that lives primarily outdoors,

- (a) must be at least three metres long;
- (b) must allow the dog to move safely and unrestricted (except by its length); and
- (c) must allow the dog to have access to adequate and appropriate water and shelter. O. Reg. 60/09, s. 3 (4).

Standards of care for captive wildlife

4. (1) Wildlife kept in captivity must be provided with adequate and appropriate care, facilities and services to ensure their safety and general welfare as more specifically set out in subsections (2) and (3) of this section and in sections 5 and 6. O. Reg. 60/09, s. 4 (1).

(2) Wildlife kept in captivity must be provided with a daily routine that facilitates and stimulates natural movement and behaviour. O. Reg. 60/09, s. 4 (2).

(3) Wildlife kept in captivity must be kept in compatible social groups to ensure the general welfare of the individual animals and of the group and to ensure that each animal in the group is not at risk of injury or undue stress from dominant animals of the same or a different species. O. Reg. 60/09, s. 4 (3).

Standards for enclosures for captive wildlife

5. (1) A pen or other enclosed structure or area for wildlife kept in captivity must be of an adequate and appropriate size,

- (a) to facilitate and stimulate natural movement and behaviour;

- (b) to enable each animal in the pen or other enclosed structure or area to keep an adequate and appropriate distance from the other animals and people so that it is not psychologically stressed; and
- (c) to ensure that the natural growth of each animal in the pen or other enclosed structure or area is not restricted. O. Reg. 60/09, s. 5 (1).

(2) A pen or other enclosed structure or area for wildlife kept in captivity must have,

- (a) features and furnishings that facilitate and stimulate the natural movement and behaviour of each animal in the pen or other enclosed structure or area;
- (b) shelter from the elements that can accommodate all the animals in the pen or other enclosed structure or area at the same time;
- (c) surfaces and other materials that accommodate the natural movement and behaviour of each animal in the pen or other enclosed structure or area;
- (d) one or more areas that are out of view of spectators; and
- (e) one or more sleeping areas that can accommodate all the animals in the pen or other enclosed structure or area at the same time and that are accessible to all the animals at all times. O. Reg. 60/09, s. (2).

(3) A pen or other enclosed structure or area for wildlife kept in captivity must be made of and contain only materials that are,

- (a) safe and non-toxic for the animals kept in the pen or other enclosed structure or area; and
- (b) of a texture and design that will not bruise, cut or otherwise injure the animals. O. Reg. 60/09, s. 5 (3).

(4) A pen or other enclosed structure or area for wildlife kept in captivity and any gates or other barriers to it, including moats, must be designed, constructed and locked or otherwise secured to prevent,

- (a) interaction with people that may be unsafe or inappropriate for the wildlife;
- (b) animals escaping from the pen or other enclosed structure or area by climbing, jumping, digging, burrowing or any other means; and
- (c) animals or people (other than people who are required to enter the enclosure as part of their duties) from entering the pen or other enclosed structure or area by climbing, jumping, digging, burrowing or any other means. O. Reg. 60/09, s. 5 (4).

(5) A pen or other enclosed structure or area for wildlife kept in captivity and any gates or other barriers to it, including moats, must be designed, constructed and maintained in a manner that presents no harm to the wildlife. O. Reg. 60/09, s. 5 (5).

Standards of care for captive primates

6. Every primate kept in captivity must be provided with,

- (a) daily interaction with a person having custody or care of the primate;
- (b) a varied range of daily activities, including foraging or task-oriented feeding methods; and
- (c) interactive furnishings, such as perches, swings and mirrors. O. Reg. 60/09, s. 6.

7. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 60/09, s. 7.