



DRAFT POSITION STATEMENT

Reporting Suspected Animal Abuse or Neglect

Reviewed by Council Feb 3, 2010, and approved for circulation to stakeholders.

Approved by Council:	TBA
Publication Date:	TBA
To Be Reviewed by:	TBA
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. See Appendix 1.
College Contact:	Registrar
Reference Materials:	<i>Ontario Society for the Prevention of Cruelty to Animals Act:</i> http://www.search.e-laws.gov.on.ca/en/isysquery/aaa32fe0-bc16-4dc9-b944-415a33f26294/1/frame/?search=browseStatutes&context= CVMA material on Animal Abuse, including Recognition and Reporting of: http://canadianveterinarians.net/animal-abuse.aspx 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.

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)**

Subsection (iv) has always allowed veterinarians to report suspected animal abuse or neglect, while subsection (ii) has always included cases where a warrant or subpoena

has been presented to the veterinarian; subsection (ii) now also includes the requirement to report under the *OSPCA Act*.

This requirement means that the veterinary profession in Ontario is now legally and ethically required to actively participate in the protection of animals 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 not the only possible causes.

Distress

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

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;

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.”

Abuse and Neglect

The Oxford English Dictionary (OED) defines the noun “abuse” as “cruel and violent treatment,” and the adjective “abusive” as “involving cruelty and violence.”¹

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.

Making the Assessment

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.

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

When these two conditions are met, veterinarians are required by law to report his/her belief that abuse and/or neglect may be occurring to the OSPCA.

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.” 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 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)
- refusal to treat when animal is suffering or in pain.

Clients’ Refusal to Treat

The College recognizes the tension between the facts that veterinarians recommend treatments that will be of financial benefit, and 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
- the client has indicated that he/she will not seek treatment for the animal elsewhere;
- the client refuses to consent, despite the veterinarian’s offer to make financial arrangements that are mutually agreeable.

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

Veterinarians may have protection from personal liability for reporting suspected abuse or neglect as long as the report is made in good faith. There may be similar protections in case law decisions made by the courts. The immunity clause in the original *OSPCA Act* remains as follows:

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 obtains 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

- 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 possible, and record all findings, including details about the animal’s behaviour.
- Perform appropriate diagnostic tests.
- When issues cannot be resolved through client education or there appears to have been abuse or neglect, report the case to the *OSPCA* (see below).
- Advise the client that a report is going to be made.

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.

How to Report

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

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

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APPENDIX 1

Relevant Legislation

The *Veterinarians Act, 1989*, is the profession specific *Act* which governs the practice of veterinarians in Ontario. O. Reg. 1093 is the regulation under that *Act*.

From Regulation 1093, Part II: Practice Standards:

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 *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 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;

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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.