



## Animal Law Issues Increasingly Significant. How Do Colorado Veterinarians Respond?

Colorado saw first hand how sensitive animal law issues have gotten, when in 2003 a bill was presented to the legislature to attempt to (among several items) allow for compensatory damages for loss of companionship of a pet. The bill also raised discussion about the legal status of pets as property.

The bill was soundly defeated, but it did serve as a wake-up call to Colorado's veterinarians. It symbolized the intersection of several significant trends – a general public that is more aware of animal welfare issues and views pets as part of the family; an increasing number of law schools adding animal law to the curriculum (along with the establishment of animal law committees by bar associations); a growing tendency in society for litigating issues; and increased activity by well-funded organizations pursuing an agenda of change in regard to the role and legal status of animals in contemporary society.

Changes in attitudes are being reflected in many ways. Through municipal ordinances, state statutes, or court opinions, some changes in animal law already have been implemented in Colorado and in other states – while other changes are being proposed by animal advocates ranging from the veterinary community to animal protection organizations.

In order to keep abreast of how Colorado veterinary community views these changes, this summer the CVMA Task Force on Animal Status surveyed CVMA members on issues of animal law. The task force was charged with developing guidance on a set of inter-related animal law issues. The survey was mailed to all members in May, and nearly 550 veterinarians responded by the June deadline.

*see Animal Law Survey on page 6*

## What's the Problem with Informed Consent?

### CVMA Studies the Complexities of Informed Consent and the Evolution of Risk Assessment

*The following is an article provided by Martin J. Fettman, DVM, MS, PhD, Associate Dean of the Colorado State University College of Veterinary Medicine and Biomedical Sciences, and member of the CVMA Task Force on Animal Status. The article details CVMA's recent activities on the subject of informed consent. Following this letter are the new CVMA Guidelines for Risk Assessment.*

I was attending an evening seminar several years ago given by Dr. Bernie Rollin to the CSU Professional Veterinary Medicine elective course on Complementary and Alternative Veterinary Medicine (CAVM). Bernie employed his usual provocative approach of questioning the evidence for efficacy of CAVM modalities, using multiple examples of incongruities between mechanisms and outcomes. The students, all of whom had enrolled in the course because of their support for CAVM, reacted adversely. In fact, this raised another issue we've been agonizing over – that some of our students seem less tolerant of diverging points of view, and instead of engaging in constructive debate, often revert to antagonistic dissent.

One astute veterinary student calmly asked why we would hold CAVM to different standards than other commonly accepted veterinary practices that likewise have not been proven through controlled study. Of course, Bernie pointed out that "two wrongs don't make a right" – we should hold all practices to the standards of evidence-based medicine.

This prompted me to think about our professional rationale, if you will, for using unproven methods. It occurred to me that our "out" has always been "informed consent." Why, one could the-

*see Informed Consent on page 4*

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(left) Carter Sondrol rests his head on his new teddy bear and his arm on his trusty canine helper Nedra.



The CSU veterinary class of 1984 poses with Carter after the class gave a record bid for Carter's new teddy bear.

## An Auxiliary Auction to Remember!

The annual Shirley Clark Projects Auction at CVMA Convention 2004 brought in an all-time record of nearly \$25,000 to help the CVMA Auxiliary continue its mission. See page 29 for more details.



## Animal Law Survey from page 1

The task force collected opinions on animal law issues to help CVMA formulate its positions, to acquaint members with the multitude of animal law issues, and to ascertain any trends or consensus in the way that members think about these animal law issues.

The following is a general breakdown of some of the data gathered from this survey. A summary of comments was compiled by task force members Dr. Chris Morris (chair) and Dr. Todd Towell. Because of the magnitude of the survey only a small portion of the results are provided in this article. A 30-page comprehensive data summary is available for download from the CVMA Web site at [www.colovma.com](http://www.colovma.com), or via fax by calling CVMA at 303.318.0447. Other summaries of this information may appear in future issues of the *Voice*.

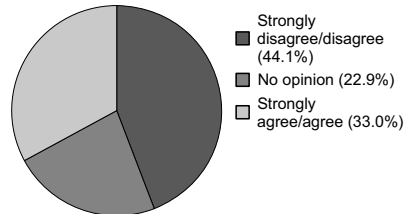
*CVMA gratefully acknowledges the contributions made by Dr. Jim Wilson and the Pennsylvania Veterinary Medical Association in drafting the survey questions; Carrie Woltman, who tabulated survey responses during her internship with CVMA; Dr. Lori Kogan, the outcomes assessment officer at the CSU College of Veterinary Medicine and Biomedical Sciences, who analyzed and illustrated the data.*

## CVMA Member Survey on Animal Law Issues

### Pet Custody

**Survey:** I believe that enacting laws that would allow for custody of pets in divorce cases would be beneficial to society and the veterinary profession.

#### CVMA Members Response



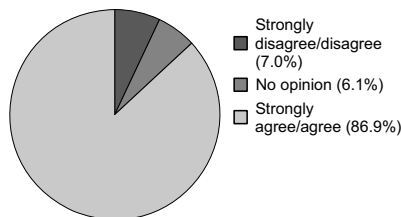
#### Task Force Comments

Most respondents needed more information to comment on this issue. One pointed out that it is dangerous (sic to the profession) to declassify pets from property status.

### Pet Trusts

**Survey:** I believe that laws allowing animal owners to leave money and instructions in a trust document for the care of their pets is beneficial to society and the veterinary profession.

#### CVMA Members Response



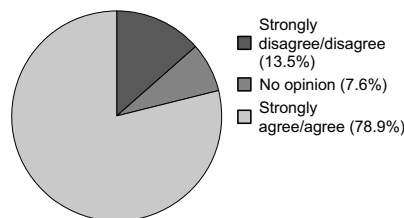
#### Task Force Comments

This was considered to be most beneficial to the pets but one respondent thought this was an abuse of funds.

### Animal Cruelty

**Survey:** Veterinarians and other professionals should be mandated to report suspected animal cruelty to specified agencies whose role would be to investigate such suspicions – provided that reporting professionals are immune from civil and criminal liability.

#### CVMA Members Response



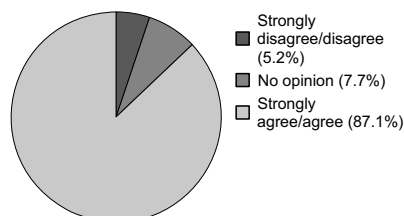
#### Task Force Comments

The questions on animal cruelty were confusing to several respondents. The general consensus was that good guidelines need to exist to help veterinarians recognize and report cruelty.

### Value of Pets to Human Health

**Survey:** Pet ownership often provides psychological or psychiatric value to individuals and families in excess of that provided by pharmaceutical products.

#### CVMA Members Response



#### Task Force Comments

A few respondents felt they were not qualified to make a judgment on the impact animals have on human health.

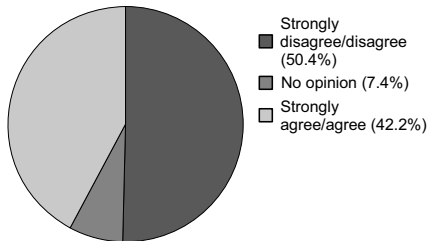
## Guardianship

**Survey:** I believe that laws changing ownership of pets to include or replace the term ownership with guardianship would be good for...

	strongly disagree or disagree	no opinion	strongly agree or agree
society	78.2%	4.9%	16.9%
animals defined as pets	70.4%	7.2%	22.4%
the veterinary profession	80.1%	8.6%	11.2%
animal shelters	73.1%	13%	13.9%

**Survey:** I do not understand enough about the legal ramifications accompanying a change from ownership to guardianship to have an informed opinion on this subject.

### CVMA Members Response



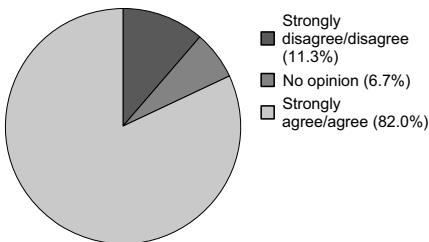
### Task Force Comments

A significant number of respondents felt they did not have enough information on this topic. One suggested that this is just a mechanism for additional lawsuits. One suggested that this could be the end to 'convenience' euthanasias if guardians are held to the same standards as in human medicine. One pointed out that if pet owners are to be held to the same standards as in human medicine some people would not be able to afford to care for a pet but that veterinarians could be expected to provide a higher level of care, with increased revenue and better service to the public.

## Declawing Cats

**Survey:** I believe I save cats' lives and prevent cruelty to them by declawing them as kittens before destructive behavior patterns begin or after behavior modification efforts have failed. Thus, I would not support laws prohibiting the declawing of domestic cats.

### CVMA Members Response



### Task Force Comments

Most respondents agreed that with the currently available surgical techniques and pain management options, declawing cats can be a humane procedure. Several mentioned the need for counseling the owners and using the procedure after attempts at behavior modification. A few agree that this procedure can save lives by reducing the number of cats that are relinquished, euthanized or relegated to 'outdoor' status.

*see Animal Law Issues Survey on page 8*

## Animal Law Survey Demographic Information

Total Number of Survey Responses = 546

Employment setting	#	%
Private practice	406	75.3
Retired	48	8.9
Student	28	5.2
Educational institution	26	4.8
Humane organization	12	2.2
Industry	7	1.3
Public sector	7	1.3
Other	4	0.7
Non-veterinary	1	0.2

Practice type (primary)	#	%
Small/exotic animal	348	66.3
Mixed practice	79	15.0
Not in practice	59	11.2
Equine	23	4.4
Bovine	10	1.9
Food animal	6	1.1

Gender	#	%
Female	247	48.2
Male	265	51.8

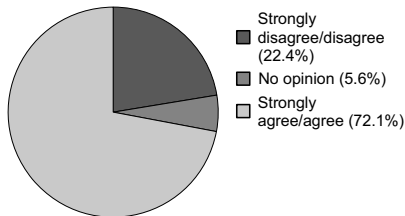
Year DVM (VMD) degree attained	#	%
< 1950	7	1.4
1950-1959	26	5.2
1960-1969	49	9.8
1970-1979	94	18.8
1980-1989	114	22.8
1990-1999	117	23.4
2000 >	90	18.0

## CVMA Member Survey on Animal Law Issues *(continued from page 7)*

### Dangerous Animals

**Survey:** I believe that the veterinary profession should oppose any laws that prohibit the ownership of animals based solely on the dangerous nature of their breed.

#### CVMA Members Response



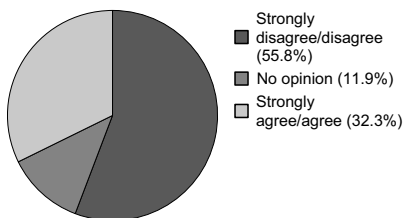
#### Task Force Comments

There were several criticisms of how the questions on dangerous animals were worded and this did cause some confusion. One comment suggested that the definition of dangerous dog should be based on the temperament of the animal not the breed and one suggested that there be stronger consequences for the owner for irresponsible handling of animals that result in injury.

### Animals as Property

**Survey:** It is my opinion that the veterinary profession should support the passage of new statutory law that differentiates pets from animals and other forms of personal property.

#### CVMA Members Response



#### Task Force Comments

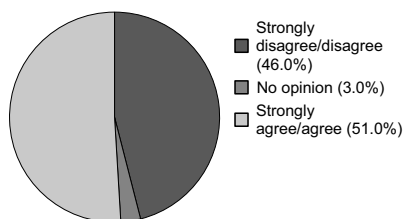
There was much confusion about the difference between the definition of pets and animals as used in this question. Many indicated they did not have enough information about the legal ramifications of this issue. One suggested that this could lead to the collapse of veterinary medicine.

With regard to allowing the courts to resolve the issue there was also considerable confusion and lack of information. The general consensus was that leaving this matter to the courts would be counterproductive and could result in a significant financial impact to veterinarians. At the same time, several suggested that if owners are held to a higher standard of care for their animals then both the animals and the profession may benefit.

### Owner Compensation Due to Negligent Death

**Survey:** Owners should be allowed to obtain noneconomic damages for their losses provided that there is a reasonable cap on such liability.

#### CVMA Members Response



#### Task Force Comments

There was much confusion about the definition of non-economic damages. For this question there were 15 respondents that suggested limits of less than the lowest survey choice which was \$10,000.

One respondent suggested that if owners decline recommended veterinary care for economic concerns they should not be allowed to collect non-economic damages as a result of their failure to provide adequate care.

## ASK CVMA

Have you ever had a client or a case that was a complete conundrum? Have you ever wished you had an attorney on staff or direct access to the State Board of Veterinary Medicine? Have you ever had a dilemma where it felt impossible to come up with the right answer?

**This is your forum. Ask CVMA and we will find the answers.**

*The following question was posed by a CVMA member. The response was crafted from information provided by the Colorado State Board of Veterinary Medicine.*

#### Dilemma

I recently recorded "neuter" in my patient's medical records, but now I am hearing that the new record keeping guidelines suggest more description should be included. What should I do?

#### Response

This specific topic was recently addressed by the Colorado State Board of Veterinary Medicine. Board members prefer the record to include details on items such as preparation of the surgical site, type and volume of anesthesia used, whether or not the scrotum was neutered, the surgical technique (e.g. laser), recovery notes, etc.

Colorado law states that veterinarians must keep animal patient records on animals with which they have a client-patient relationship that justify the assessment, diagnosis, and treatment administered or prescribed. In addition, such records must be legible, written, printed, or prepared electronically as unalterable documents.

Records must be prepared in a manner such that any subsequent evaluation of the same animal patient record would yield comprehensive medical, patient, and veterinarian identifying information.

For more information read the State Board policy guidelines on their Web site at <http://www.dora.state.co.us/veterinarians/Policies&Guidelines.pdf>.

*If you have a dilemma for member consideration, please contact Scott Piper at 303.318.0447 or [scottpiper@colovma.com](mailto:scottpiper@colovma.com). Responses and or answers to these case studies will be provided in future issues of the Voice.*