

REVIEW ARTICLE

Welfare, law and ethics in the veterinary intensive care unit

(A discussion of the different types of suffering that patients may endure in the veterinary intensive care unit, the legal limits to that suffering, and the ethics underpinning at what point that suffering becomes ‘un-necessary’)

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Abstract

Objectives In UK law, allowing an animal protected under the Animal Welfare Act 2006 (AWA 2006) (as devolved) to suffer ‘unnecessarily’ may render the person responsible for it to prosecution. The act does not define suffering, although ‘case law’ suggests that suffering encompasses more than pain. Clinicians responsible for animals under their care in the intensive care unit (ICU) are likely to also be responsible in law for the welfare of those animals, and may be called upon to justify why any suffering was necessary, or more likely, why they did not act to end any suffering when it became ‘unnecessary’. As animals are considered to be ‘property’ in law, the legal requirement to prevent ‘unnecessary suffering’ may conflict with the owner’s property rights. Additionally, professional conflict may arise between the clinicians whose opinion of where the border between ‘heroic treatment’ and ‘futile treatment’ lays. Different types of suffering that might be relevant to clinical and ethical decision making for patients in the ICU are discussed, with suggestions for how these might be categorised, measured and recorded, so that objective data is available on which discussions about the animal’s actual and projected welfare can be held with the animal’s owner, and other clinicians involved in the case.

Conclusions The development of ‘welfare scoring systems’ for the ICU may assist clarifying the point at which heroic treatment is becoming futile, and therefore suffering becoming unnecessary, and place veterinary anaesthetists in an even stronger position to act as ‘advocate for the animal’ in their care.

Keywords animal welfare, intensive care, law.

Introduction

In a 2011 editorial in this journal titled ‘Animal welfare in biomedical publishing’, the authors expressed concern about ‘transgressions against animals’ appearing in biomedical literature (Clutton et al. 2011). The authors suggested that veterinary anaesthetists found the compromise of animal welfare standards in some papers that they reviewed and read was ethically unacceptable, and that the fact that ‘veterinary anaesthetists appear to be particularly sensitive to these transgressions is hardly surprising given their training and motivation.’ (Clutton et al. 2011).

A few months prior to the above editorial in this journal, the British Veterinary Association ‘contentious issues debate’ took place at their congress, asking ‘With euthanasia a legitimate treatment option in veterinary practice, at what point does

treatment become overtreatment?’ ([Veterinary Record 2010](#)). In the debate, Dorothy McKeegan raised concerns about the ‘more extreme’ or ‘heroic’ forms of clinical treatment which were increasingly becoming technically available, especially for companion animals, and the ethical dilemmas that could arise from potential competing interests that may exist in such situations, between the desires of the owner, the veterinary surgeon and the best welfare interests of the animal concerned.

Veterinary anaesthetists, with their key role in the ‘intensive care unit’ (ICU), are likely to be heavily involved in the care of animals undergoing ‘heroic treatment’, and may be well placed to adjudicate on the point at which treatment becomes ‘overtreatment’, both by physical location, and as a result of their ‘training and motivation’. This review seeks to discuss and attempt to define what is meant by ‘suffering’, examine situations where it becomes ‘unnecessary’, and considers the development of systems that might help clinicians recognise different forms of suffering, and help delineate the point at which treatment is becoming ‘futile’, and hence suffering ‘unnecessary’.

Ethical context

Debate about the ethical dilemmas that face veterinary surgeons in relation to their professional, legal and ethical responsibilities to animals under their care, and animal’s owners, are not new. The Farm Animal Welfare Council (FAWC) using the term ‘veterinary trilemma’ to refer to the problem ([FAWC 2012](#)).

[Rollin \(2006\)](#) examines the above relationship in some detail in his ‘car mechanic-paediatrician model’. Here, Rollin examines the ethical and legal positions of the three parties involved in the social contract that occurs in veterinary medicine between two ‘moral agents’ (the veterinary surgeon and the animal’s owner), and their ethical duties to each other, and to the ‘moral patient’ in that relationship (the animal itself), who while sentient, is also regarded as ‘property’ in law. Rollin poses a number of questions in relation to this situation: 1) given that animals are ‘property’ in law, and hence could be considered in the same way as a person’s car, should the veterinary surgeon behave like a ‘mechanic’ and ‘do the bidding of the owner’ for a ‘fee’ irrespective of the effect on the animal?; 2) as the animal is ‘sentient’ (if not a moral agent), would it be more appropriate to treat it like a human baby, who like the animal is

sentient (but not a moral agent) and capable of suffering, but not considered property in law?; and 3) given the legal status as of the patient as ‘property’, where on the spectrum between acting as ‘car mechanic’ or ‘paediatrician’ should veterinary profession should position itself, when it comes to their relationship between the welfare of the animal in their care, and the owner’s wishes and property rights?

In the UK, as will be discussed subsequently, statutory legislation ensures that the welfare of the owner’s property (i.e., the animal in the care of the clinician) is not abandoned to the caprice of the owner’s property rights. However, delineating the point at which concerns about welfare override the property owners’ rights may be difficult, both ethically and legally.

Such dilemmas are common to many areas of veterinary practice; however, perhaps one situation where the above dilemma is likely to be most acute is in the veterinary ICU, where at some point, the question may well be asked, ‘at what point does “heroic” treatment become “unfair” on the animal?’ Such clashes between ‘virtues’ and ‘vices’, (and when one tips into the other) form the basis for debate in ‘virtue ethics’, and, as veterinary anaesthetists quite literally often have their ‘fingers on the pulse’ in such situations, they may often be best placed to adjudicate between such conflicting ethical dilemmas.

Where conflicts arise between the desires of an owner, [or other veterinary surgeons ([Yeates et al. 2013](#); [Yeates 2016](#))] to continue with ‘heroic treatment’, (Rollin’s mechanic’s perspective) and others responsible for the animal’s care think that treatment is becoming ‘unfair’ on the animal (Rollin’s paediatrician’s view), [McKeegan’s \(2010\)](#) view is that the most important approach to take in these situations is; ‘to do what the animal wants’. For veterinary anaesthetists who may wish to act to prevent ‘transgressions’ against animals by acting as the ‘advocate for the animal’, the issue becomes how to justify their view of ‘what the animal wants’.

Such justification is likely to carry greater weight if it is based on sound science and ethics, and applied within the legal context in which they apply their professional skills. Given the specialist skills that veterinary anaesthetists have in patient assessment and prognosis, they are in a powerful position to act as ‘advocate for the animal’ when in the ICU, by becoming its ‘surrogate’. However, there appears to have been little published on how decision making in

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