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Informed consent plays an important role when practicing veterinary medicine along the spectrum of care

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Abstract

Practicing along a spectrum of care means providing a full range of recommendations, including those tailored to contextual factors such as a patient's needs and a client's preferences, abilities, goals, and resources. Some veterinarians have concerns that practicing along a spectrum of care, rather than adhering to "gold standard" medicine, endangers their license or risks discipline from a veterinary regulatory board. To meet the needs of the regulatory boards while practicing along a spectrum of care, veterinarians should provide a full range of options that are at or above a minimum standard of care and obtain and document informed consent. This paper introduces veterinary regulatory boards, disciplinary processes, and expectations for informed consent. The concept of standard of care is presented, in addition to the importance of maintaining complete medical records. Hypothetical examples drawn from disciplinary cases are presented. Although there may be crossover, this paper does not specifically address civil lawsuits. Furthermore, it should not be construed as legal advice.

Keywords: spectrum of care, discipline, informed consent, board, standard of care

Practicing along the spectrum of care, and the related concept of contextualized care,[1,2] mean offering a range of care options to meet the needs of the patient and the preferences, abilities, goals, and resources of the client.[3–7] This extends beyond financial constraints as demonstrated in **Figure 1**.[5] Veterinarians have expressed concerns that practicing along a spectrum of care, rather than adhering to "gold standard" medicine, endangers their license or risks disciplinary measures from veterinary regulatory boards.[8,9] Gold standard medicine may refer to the most intensive and advanced treatment that is expected to lead to the best outcome.[4]

If done correctly, practicing along a spectrum of care typically aligns with a regulatory board's requirements and optimizes patient care and client satisfaction.[10] It may remove risk factors that could lead to a client complaint to the board, such as practicing below the minimum standard of care, failing to obtain informed consent, poor client communication, and inadequate medical recordkeeping.[11–16]

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Introduction to Veterinary Regulatory Boards

To understand the expectations of a veterinary regulatory board, veterinarians must first understand its composition and mission. There are 63 veterinary regulatory boards in North America. All veterinary regulatory boards and councils share a common mission of public protection. The regulatory structure under which a board achieves this mission will vary by jurisdiction and is not set at a national level; each board must adhere to its own unique state or provincial laws and regulations. The diverse legal landscape means each jurisdiction has a process to implement these duties, which may significantly differ from other jurisdictions.

In general, a veterinary regulatory board is comprised of a panel of licensee volunteers including veterinarians and public members; about half of regulatory boards also contain a veterinary technician. The board works with staff and legal counsel to establish and enforce professional standards of veterinary practice. The regulatory board also issues and renews licenses, enforces the practice act, and promulgates rules and regulations for professionals within that jurisdiction. Furthermore, the board investigates complaints and levies enforcement and disciplinary actions when a violation of the veterinary practice act occurs. These actions may range from educational letters or citations with fines to suspension or revocation of a license.

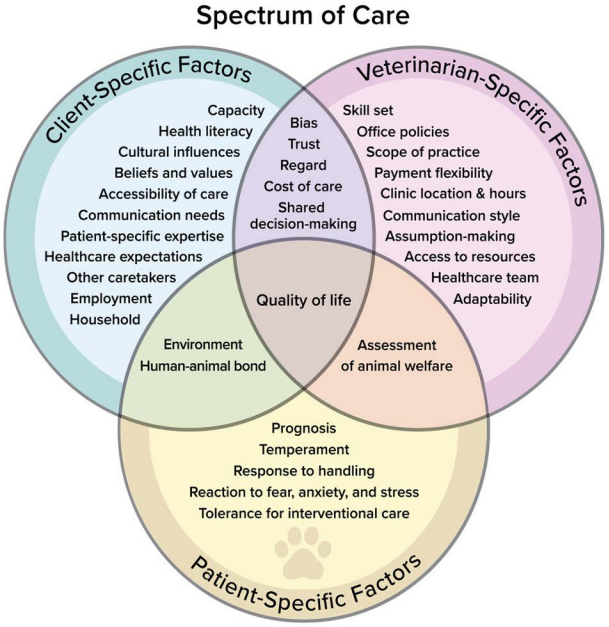

Figure 1—Client-, patient-, and veterinarian-specific considerations that factor into the spectrum-of-care approach to the practice of veterinary medicine. (Reproduced from Englar RE. Recasting the gold standard – part I of II: delineating healthcare options across a continuum of care. *J Feline Med Surg*. 2023;25(12). doi:10.1177/1098612X231209855. Reprinted with permission.)

Disciplinary actions against veterinarians and veterinary technicians can be complaint driven, meaning that a complaint is filed by a member of the public or another regulatory agency, such as the board of pharmacy. The complaint review process varies between regulatory boards.[13] Each board investigates and prosecutes complaints based on the unique case and in response to the regulations and laws of that jurisdiction. Licensees should consult their jurisdiction's veterinary practice act or regulatory board's website, newsletters, or other documents for specific details. The following summary illustrates one such process for one board. Upon receiving a complaint against a veterinarian or veterinary technician, the regulatory board will determine if there has been a violation of the veterinary practice act or other law. If the complaint does not involve a violation, it is deemed nonjurisdictional and will be dismissed. Examples of nonjurisdictional complaints may include those regarding a licensee's bedside manner, long wait times, or specific fees. Conversely, complaints that may be jurisdictional include allegations of unprofessional conduct, failing to address an immediate life-threatening condition in a timely manner, or charging for services not rendered. Many client complaints to regulatory boards originate from failures in communication.[11,12,14,15]

If sufficient grounds are found for a potential violation, the board or staff investigates by reviewing relevant evidence such as medical records, interviewing involved parties, and consulting experts as necessary. In most cases, complaints involving a potential standard-of-care violation will be reviewed by the licensee volunteer panel; occasionally, the opinion of a subject matter expert will be obtained.[17] Many jurisdictions train their board that licensees are not required to practice gold standard medicine, and when evaluating cases, they should rather determine whether the licensee has met the minimum standard of care. This can be considered what a competent average veterinarian in that jurisdiction would reasonably deliver in the same or comparable situation. If a violation has occurred, the board then sets the disciplinary action. Some jurisdictions have guidelines for disciplinary actions based on the violation,[18] while with others the disciplinary action is determined by the regulatory board.

Minimum Standard of Care

Veterinary regulatory boards require veterinarians to adhere to a reasonable and appropriate practice of medicine, known as the *standard of care*.[10] Some veterinary practice acts have described the expected standard of care in their veterinary practice acts.[19] One definition is "the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances, including the type of practice, by average members of the veterinary medical profession in good standing in the locality or geographic community in which they practice, or in similar communities."[20]

Regulatory boards do not assess the veterinarian's care against a specific gold standard.[21,22] Rather, veterinary regulatory boards determine whether the care provided is what a competent average veterinarian would reasonably deliver in the same or comparable situation. Some practice acts, as in the definition above, may consider the varying levels of available resources and community expectations within distinct locations. However, this locality consideration is waning as technology advances and access to more resources enables a more homogenous level of available care.[23] Specialists may be held to higher benchmarks commensurate with their advanced training and access to more sophisticated resources.[10,19,24] It is critical for the veterinarian to read and understand the veterinary practice act of every jurisdiction in which they practice to understand and meet the needs of that specific regulatory board.

Substandard care is below the minimum standard of care. It may be a plan that will not lead to a diagnosis, improved prognosis, or better quality of life for the patient. It may be a medically futile treatment plan that allows for continued or increased patient suffering. The regulatory board determines whether care has met or exceeded the minimum standard on a case-by-case basis. Veterinarians should neither offer nor enact substandard care. However, doing nothing or "benign neglect" may be a suitable choice if the patient is not suffering and the client is informed of the risks and potential next steps. Similarly, empirical treatment or a treatment trial may be an acceptable option. If the client is unwilling or unable to pursue a path forward and the animal is suffering, euthanasia should be recommended. Depending on the policies in place at

that veterinary facility, a licensee may also discuss relinquishing or rehoming an animal for it to receive care. All relevant conversations and client approval, including euthanasia or transfer of ownership, should be clearly documented to protect the licensee and veterinary facility.

Veterinarians may encounter instances where the client refuses all available appropriate options, including humane euthanasia, and instead insists on a course of action that the veterinarian considers to be substandard care, that is, below the minimum standard of care. The veterinarian should professionally and empathetically inform the client of the poor prognosis expected from such a path, recommend a referral to another veterinarian for a second opinion as soon as possible, or provide educational resources to allow the client to understand the ramifications of their choice. Veterinarians should not perform a treatment plan that is below the minimum standard of care and have the right and obligation to decline to proceed. If a complaint occurs, it is in the veterinarian's best interest to have documented the previously described elements in the medical record.

This minimum standard of care in veterinary medicine is dynamic. Advances in technology and research, and evolving client expectations, may increase the baseline level of care.[23] Conversely, emerging evidence-based research suggests less aggressive yet effective treatment alternatives that offer comparable prognoses to the "traditional" app roach.[25–30] This evolution means the minimum standard of care is continually reassessed on a case-by-case basis by the regulatory board.

Informed Consent

Obtaining and documenting informed consent for recommendations that are at or above the minimum standard of care is critical to practicing along a spectrum of care within the regulatory board's requirements. Not all veterinary practice acts explicitly require informed consent, but documentation of this process is the licensee's best defense if a complaint is filed against them.[31] Some practice acts outline key components of informed consent in the principles of ethics[32] or include the failure to obtain under unprofessional conduct.[33] Alternatively, other veterinary practice acts have explicitly defined or named *informed consent*.[34,35] One example is "the veterinarian has informed the client or the client's authorized representative, in a manner understood by the client or the client's representative, of the diagnostic and treatment options, risk assessment, and prognosis, and the client or the client's authorized representative has consented to the recommended treatment."[36] There are multiple required elements in obtaining informed consent in the previous example, and they all align with practicing along a spectrum of care.

First, the veterinarian must communicate with the client or their representative in a manner understood by them. This requires the veterinarian to use terminology the client can understand. For example, a veterinarian may choose to use different terminology with a client in the medical field versus one who is not, or they may choose to go into more detail with a novice animal owner than with a more experienced one. The veterinarian should make every effort to ensure the client understands what they are being told. This communication and education step is the most important in obtaining informed consent, so it is necessary that the veterinarian ensures it is adequate, understandable, and complete enough for the owner to decide.

Second, the veterinarian should offer a range of diagnostic and treatment options for the client. To practice along a spectrum of care, these options should include those that best align with the client's preferences and needs for that specific patient and presentation. To fully respect the client's decision-making autonomy, the presented options should also include a gold standard option even if the veterinarian suspects it may not match the client's preferences or abilities. Veterinarians should carefully consider the way and the sequencing in which these options are offered. Clients may feel pressured or otherwise compelled to agree to the first option presented to them.[37] A client complaint may originate from buyer's remorse just as easily as from concerns of malpractice or substandard care. Especially for more serious or complex cases, a referral to a specialist or second opinion should be presented as a possibility,[38,39] in addition to staying with the current veterinarian and practice if it is within their abilities, available resources, and equipment.[40] Even if a referral is not within a feasible location or the client's current ability, the veterinarian should inform the client of this option, especially if the patient is unlikely to recover without it. The client's circumstances or priorities may change, and this option may subsequently become feasible. The veterinarian should also discuss less invasive, expensive, or resource-intensive options. However, at no time should the veterinarian recommend options that fall below a minimum standard of care or claim to be able to perform those that are outside the expertise or capabilities of the veterinarian and facility.[32,41]

Third, the veterinarian must explain the risks and prognosis of nontreatment, as well as for each treatment option presented to the client. Should the client choose a path forward that is still viable but has a lower success rate than others, the veterinarian should relay the projected prognosis to the owner and document this in the medical record. For all options, the veterinarian should provide an estimate of current costs and prepare the owner for future costs. For the best supporting evidence in the event of a board complaint, that estimate should be signed, and this conversation should be documented.

The final piece of informed consent is that the client agrees to the veterinarian's recommendations. Some boards explicitly state that informed consent be obtained before treatment and require this to be written or otherwise documented in the medical record, particularly before euthanasia or before surgery or hospitalization.[42–45] Regardless of whether it is codified in a practice act or not, the adage of "if it isn't written down, it didn't happen" applies

to informed consent. Obtaining and documenting informed consent for treatment plans serves as a protective measure should a client file a complaint with the regulatory board. Documenting the consent process also serves as a useful tool for ensuring continuity of care. However, neither writing down the options for the client nor documenting informed consent eliminates the need to have the actual conversation. The medical record documents the main elements of a conversation; it does not replace having dialogue with the client.[46]

Medical Recordkeeping

While not a common reason for a client to file a complaint, failures in medical recordkeeping are a common reason for the board to determine that a violation of the practice act has occurred.[13] Medical records may not prevent a client complaint, but they are the veterinarian's best defense should a complaint occur. Sufficient documentation illustrates that the veterinarian has met the standard of care, demonstrates informed consent, provides a medical history, and allows for continuity of care.

Regulatory boards may list minimum requirements for medical recordkeeping in their veterinary practice acts, regulations, or guidance documents.[47–49] For prescriptions and controlled substance documentation requirements, veterinarians should also consult with their respective pharmacy boards. In general, regulatory boards require accurate, timely, legible, and complete documentation. Good medical records allow another veterinary professional to understand the patient's presentation, the client's concerns, the veterinarian's clinical findings, the diagnostic and treatment options, and the client's decisions. In the medical record, the veterinarian may wish to include sources for their recommendations to the client, including consultation notes, discussions with peers, and evidence-based research. This documentation could be beneficial if the veterinarian's conduct is questioned in disciplinary action.[50]

As stated earlier, informed consent must be documented to prove it occurred. Several strategies have been described to incorporate this into a busy workday.[7,51–55] Equally important is documenting refusal of consent or the client wishing to proceed with a plan the veterinarian considers substandard care. In these instances, having the client sign an "against medical advice" form is one option. However, the course most aligned with practicing along the spectrum of care would be to acknowledge the difficult situation that led the client to decline available options and work with them to find a path forward, as discussed previously. The veterinarian may wish to create a discharge document with a brief description of the concerns, diagnosis, and prognosis; informative handouts; and a bulleted list of the recommendations. Upon receiving these discharge documents, the client could verify the recommendations they currently accept or decline by either initialing or crossing off each item.[50] They should be encouraged to return should they change their mind, and a referral for a second opinion should be offered.

Case Studies

The following hypothetical case studies are compilations of actual complaints submitted to regulatory boards. These case studies are presented to illustrate the previously described points; they should not be construed to predict how a disciplinary case may be decided by actual regulatory boards. Regulatory boards address public complaints on an individual basis, and discrete facts within each make it impossible to predict decisions and disciplinary actions.

Case 1

"Dottie," a 1-year-old intact female Labrador Retriever, was presented to Dr. A for vaginal discharge and lethargy. Abdominal radiographs confirmed an open pyometra. The doctor administered subcutaneous fluids, discharged Dottie with antibiotics, and scheduled Dottie for an ovariohysterectomy on their next surgery day the following week. Over the weekend, Dottie deteriorated and was taken to an emergency facility some distance from their home. There, Dottie was found to have a septic abdomen, and emergency surgery revealed a ruptured uterus. Due to the septic abdomen, Dottie required several days in the 24-hour facility until she was healthy enough to be discharged.

Dottie's owners filed a complaint with the regulatory board stating they were told she "just needed to be spayed," were not informed of the seriousness of her condition, and were not given the choice of a referral where the surgery could have been performed in a timelier manner. They claimed that had they been given this option or informed of the seriousness of her condition, they would have immediately sought emergency surgery. They expressed concern that Dottie's medical costs were most likely higher than they could have been because she was allowed to become septic and thus needed longer and more intensive hospitalization. The medical record lacked documentation of a conversation in which Dr. A discussed the diagnosis and risks and benefits of referral versus waiting until the next week for surgery. A letter was submitted by Dr. A to the regulatory board explaining their side of the case and included a recent study suggesting good outcomes for dogs with open pyometra, despite delayed surgery.

The traditional understanding of pyometras is that they are a surgical emergency; however, Dr. A was correct that recent evidence-based research has indicated that good outcomes can still be achieved with delayed surgery.[26,27] This is an example in which evidence-based research may move the yardstick of what the boards would consider to be a minimum standard of care. A concerned veterinarian might use this case as an example where the regulatory board acts as a barrier to practicing along the spectrum of care. However, Dr. A did not successfully convey the seriousness of Dottie's illness and did not provide a range of treatment options. Informed consent was not obtained. It is possible that Dr. A felt that delaying surgery until it could be done more economically was the owner's only option and opted not to offer the owners a referral that they would have to refuse.

It is also possible that Dr. A did not believe the clients would travel the distance to the emergency facility. However, this is unknowable because they were not given the choice or told the benefits and risks of each option, and no conversation was documented in the medical record. The medical record did not contain evidence that Dr. A provided a full range of options to Dottie's owners.

Case 2

"Bubby," an overweight 12-year-old neutered male Goldendoodle, was presented to Dr. B with right hind lameness and diagnosed with a right cranial cruciate rupture. Despite financial constraints, the client consented to Dr. B's recommendation of a tibial plateau leveling osteotomy (TPLO). The client applied for a loan and subsequently struggled to pay it. One month later, Bubby ruptured the left cruciate ligament and was subsequently nonambulatory. The doctor recommended a TPLO for the left cruciate, but the client was unable to qualify for another loan. The client elected to euthanize Bubby due to financial constraints and concerns for Bubby's quality of life and age. Afterward, the client learned of the possibility of conservative treatment for a cruciate rupture from a neighbor.[56] The client, regretting the first surgery, loan, and euthanasia, filed a complaint with the regulatory board. The medical records of Dr. B do not document a discussion regarding either conservative treatment or the high likelihood of the other cruciate rupturing.

The option that has traditionally been considered the gold standard for a cranial cruciate injury in a large-breed dog was presented by Dr. B. However, Dr. B did not sufficiently discuss the full range of options and did not discuss the long-term risk of a second cruciate rupture. The doctor also did not obtain informed consent. Had Dr. B discussed the full range of options and the risks and benefits of each with the client, the client may not have filed a complaint, as it was their fully informed decision to proceed with the TPLO. If the client still opted to file a complaint, documentation of this conversation and the client's informed consent may have prevented disciplinary action.

Case 3

"Daisy," a 9-year-old spayed female domestic shorthair, was presented to Dr. C for anorexia, lethargy, and weight loss. The doctor diagnosed Daisy with severe dental disease and recommended a dental procedure as soon as possible. The owners approved preanesthetic bloodwork, signed a consent form for a dental and extractions, and brought Daisy back the next day for a dental procedure. The preoperative bloodwork revealed a significant hepatopathy, hyperbilirubinemia, and hypoalbuminemia. The owners were not notified of the abnormalities, and the dental procedure proceeded as planned. Eleven teeth were extracted. Daisy was discharged with an antibiotic and analgesic. The owners contacted Dr. C the next day because Daisy was weak and refused to eat or drink. The doctor assumed that Daisy was still recovering from the anesthesia and would improve in a day. Daisy died at home that night.

The owners filed a complaint with the regulatory board. In their medical record, Dr. C noted the bloodwork abnormalities but did not record evidence that they spoke with the owners about the hepatopathy, the possibility of it as a cause for Daisy's clinical signs, or the risk of anesthesia. In the letter to the board, Dr. C justified their actions by saying the owners told Dr. C they just wanted to perform the dental with no other exploration of other possible illnesses. The doctor also provided the signed consent form as proof of the owner's informed consent. The board found Dr. C at fault for failing to notify the owners of the abnormal bloodwork and failing to address Daisy's hepatopathy.

Veterinarians practicing along the spectrum of care incorporate the client's goals and the patient's specific circumstances into the options presented. After achieving informed consent, the veterinarian and client then work together toward those goals. However, consent is an ongoing dialogue between the veterinarian and the client, not a one-time action. It must be reobtained and documented if new information arises that changes the risk assessment and prognosis. This may change the client's goals and necessitates a new conversation; it is not up to the veterinarian to decide this for the owner.

Conclusions

Practicing along a spectrum of care is an "old is new" concept arising as a counterpoint to recent trends in veterinary medicine to only offer the gold standard. An incorrect interpretation suggests basic plans are slightly above substandard care, and gold standard plans are far better than the minimum standard. Rather, care at or above the minimum standard of care is equally acceptable in meeting the regulatory board's needs. Regulatory boards require a minimum standard of care. They do not require a gold standard, and strict adherence to this with no regard for contextualized factors of the patient and client may increase the risk of complaint and disciplinary action. Veterinarians should work with clients to determine the best plan among all valid possibilities. Additional requirements include documenting informed consent and complete medical record-keeping. Some boards have stated their alignment with the spectrum of care either through policy or regulation.[57,58] Veterinarians should feel confident in practicing along the spectrum of care by meeting the requirements of the regulatory board set forth in the practice act.

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