



# SVME Newsletter

Newsletter of the Society for  
Veterinary Medical Ethics

Winter 2009

## President's Message Fall 2008

### Inside this issue:

Dear SVME Members:

As we all contemplate the current recession, I wonder how many of us consider the ethical issues that have played a major role in getting our global economy to this state. Where were, not only the bodies that were assigned to oversee the financial industry, but what happened to the ethical considerations so many of these institutions claimed to rely on?

Given the practical and ongoing work we do every day, we are now faced more often with having to deal with the needs of animals played against a background of many owners having extreme financial problems. Veterinarians individually cannot solve the economic issues of the globe. We are going to have to rely on our skills and business acumen to try and help as many animal needs as possible under the circumstances.

I hope our profession will continue to take the approach of advocating for the animal first and then dealing with the client's financial concerns second. All too often, we try and decide what the owner may or may not wish to afford and that colors our presentation about the patient's needs. Our role should be to outline the best solution for the disease or injury as our first option and then begin to consider other secondary solutions if needed because of lack of funding. To offer a smorgasbord of treatment options as if they are all equal would be doing the patient a major disservice. This is the time for Evidence Based Medicine.

We should task ourselves to make sure that we are offering the solution that will have the most likely chance of success in the majority of patients. All products and services should be carefully evaluated so that we are able to give the patient and client the best treatment options based on the best information available. That is really what the client comes to us for in the first place (at least in my mind).

We will come through this recession and similar to every one we have had in the past, we will learn great lessons from it. Like most other things in life, we learn the most about ourselves and others when times are tough. It all seems so easy when times are good. Thank you for allowing me the privilege of serving as your President in 2008-2009.

Clayton MacKay DVM  
President SVME

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## Treasurer's Report

### Submitted by John Wright on January 6, 2009

Checking = \$1,713.83

Savings = \$17,416.22

CD = \$10,191.43

Total = \$29,372.48

In addition there is another \$125.00 that has not been deposited yet

### Anticipated Future expenses:

Shomer Award = \$1000

Student Essay Award = \$1,000.00 plus travel up to \$1,000.00

SAVMA 2009 estimated expenses = \$1500

Newsletter printing costs = \$500

## SAVMA and the SVME

In an effort to continually increase awareness and membership in the SVME, the board voted unanimously to sponsor and provide support to the 2009 SAVMA Symposium taking place at The Ohio State University and Columbus Convention Center, March 26<sup>th</sup>-28<sup>th</sup>. The all day plenary session will be taking place on March 27<sup>th</sup>.

SVME Board member, Dr. John Wright will be manning the SVME educational booth that will be shared with the American Association of Human-Animal Bond Veterinarians.

Session #	Time	Speaker	Topic
1	9:00 – 9:50	Marie S. McCabe, DVM	Ethical Considerations in Animal Assisted Interventions
2	10:00 – 10:50	Marie S. McCabe, DVM	Community Service as an Ethical Obligation for Veterinarians
3	11:00 – 11:50	Candace Croney, PhD	Current ethical issues in animal behavior and welfare: The Veterinarian's Role
Lunch Break	12:00 – 1:00	Lunch	Lunch
4	1:00 – 1:50	Emily Patterson-Kane, PhD	Animal Welfare, Policy Making and the Role of the AVMA
5	2:00 – 2:50	Phil Arkow	The Veterinarian's Ethical Roles in Preventing Family Violence
6	3:00 – 3:50	Phil Arkow	The Veterinarian's Ethical Roles in Preventing Family Violence (continued)

## SVME Plenary Session / Business Meeting

The theme of this year's meeting, moderated by SVME President Dr. Clayton MacKay, is "State/Provincial Licensing Bodies: Thoughtful Public Protection or Kangaroo Courts?"

Topics for the all-day symposium include:

- ◆ A Practitioner's Viewpoint of Licensing Bodies and their Relationship with other National Veterinary Associations
- ◆ Ethical Concerns of the Specialist on a State/Provincial Board
- ◆ Facts and Myths about State/Provincial Licensing Bodies
- ◆ Balancing Regulatory and Professional Responsibility within one Provincial Association
- ◆ State/Provincial Licensing Body "Kangaroo Court or Thoughtful Public Protection"?
- ◆ Anatomy of a State/Provincial Hearing: "Good, Bad and the Ugly"

The 2009 SVME plenary session will be taking place at the AVMA convention on Sunday July 12<sup>th</sup>.

## New SVME Officers

The following slate of officers for the 2009-2010 term has been proposed by the SVME Board. The Board encourages nominations of any SVME member for a Board position.

President	Katherine Knutson DVM
President-Elect	Alice Villalobos DVM
Immediate Past President	Clayton MacKay DVM
Treasurer	John Wright DVM
Historian	Suann Hosie DVM
Parliamentarian	Diane Levitan VMD, DACVIM
Secretary	Gary Block DVM, MS, DACVIM

## Shomer Award Winner

Dr. Jerrold Tannenbaum will be awarded the 2009 SVME Shomer award. Dr. Tannenbaum will receive an engraved plaque and a \$1000 honorarium at the close of the 2009 SVME plenary session taking place at the AVMA convention.

This award is dedicated to the memory of Dr. Robert Shomer, who graduated from the University Of Pennsylvania School Of Veterinary Medicine in 1934. Dr. Shomer was a co-founder and first President of the Society for Veterinary Medical Ethics. The award is bestowed upon an individual who has made significant contributions to the field of veterinary medical ethics.

## Guardianship - 8 years later

Gary Block DVM, MS, DACVIM

**The views and opinions of the author do not necessarily represent those of the SVME or its members.**

It has been 8 years since the Rhode Island State Legislature amended its Animal Cruelty Laws and became the first state in the nation to include the term “guardian” in its laws pertaining to animals. A number of other municipalities have passed guardian legislation during the last 8 years as well. Having been a practice owner and veterinarian in Rhode Island for a decade and President of the Rhode Island VMA when Bill H. 6119 quietly passed through the legislature and was signed into law, I believe I have a unique perspective on this controversial issue.

In 2001, the RIVMA had no lobbyist or mechanism to monitor pending legislation and I was actually made aware of the bill’s passage when the executive director of the California VMA called me to ask my opinion on the new law! As written, guardian is defined as “a person who possesses, has title to or an interest in, harbors or has control, custody or possession of an animal and who is responsible for an animal’s safety and well-being.”

There have been enumerable explanations as to the genesis and ultimate passage of the guardian law. Although the California-based animal rights group In Defense of Animals has been widely reported to have lobbied and spearheaded passage of the bill, the actual series of events leading to passage was much less nefarious. A group of high school students who had been learning ethics as part of a pet-assisted therapy program read an article about the concept of guardianship and began referring to themselves as “pet guardians” instead of “pet owners”. The program’s instructors and students then decided to approach a state representative about developing and passing guardian legislation. Two students testified before the house committee and the bill easily passed through the senate and became law.

Another critical misconception about the guardian law in Rhode Island is that the term “owner” has been replaced with the term “guardian”. In fact, careful reading of the statute reveals “Guardian shall mean a person(s) having the same rights and responsibilities of an owner, and *both terms shall be used interchangeably*” (emphasis added). Further emphasizing that this legislation was not an effort to legally redefine the relationship between animals and people is section 4-1-36 that notes “wherever the word ‘owner’ shall appear in this chapter it shall also mean and be interchanged with the word ‘guardian’”. It should be noted that in certain guardian legislation elsewhere, the term is sometimes used in place of “owner” rather than interchangeably.

The common legal definition of the word guardian “is a person who has been appointed by a judge to take care of a minor child (called a “ward”) or incompetent adult personally and/or manage that person’s affairs” (from West’s Encyclopedia of American Law, edition 2. Copyright 2008). In municipalities where guardian laws have been enacted, it seems obvious that in many cases, legislators were either unaware or ignored the potential confusion associated with using the term “guardian” in legislation involving animals. Nowhere in the Rhode Island legislation is there any indication that the term “guardian” is meant to be used in the traditional legal sense although the lack of such clarification could conceivably result in an argument being made that this issue could ultimately be decided in the courts in favor of a more expansive interpretation of the guardian concept to include animals. Witness the recent appointment of animal law professor Rebecca Huss as the “guardian-special master” of pit bulls previously owned by convicted felon Michael Vick.

Response to passage of the “Guardian Law” was swift and critical. The AVMA along with the AKC and many other groups condemned the legislation. The Council of State Governments adopted a policy opposing animal guardianship and non-economic damages when an animal is hurt or killed. Many ominously predicted a tidal wave of lawsuits that would take advantage of the ambiguity that seems to exist when using guardian terminology in regard to animals. The AVMA Executive Board adopted a position statement noting that “any change in terminology describing the relationship between animals and owners does not strengthen this relationship and may, in fact, diminish it. Such changes in terminology may decrease the ability of veterinarians to provide services and, ultimately, result in animal suffering.” The California VMA produced a white paper that claimed among other things, that this [guardian law] will “jeopardize

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the readily available health care delivery system for animals by unnecessary legal delays.” DVM magazine quoting unnamed experts reported that “insurance premiums would skyrocket” if there were any changes in the legal status of animals.

Predictions of an avalanche of lawsuits and civil actions proved to be erroneous. In the 8 years since passage of Rhode Island’s now infamous guardian legislation, there have been a grand total of zero lawsuits in the state that utilized guardian terminology to recover non-economic damages and I am not aware of a single case in the country or in any of the localities that have passed “guardian” legislation that have spawned lawsuits or large judgments against veterinarians. This conclusion was affirmed via personal communication with a Massachusetts lawyer who specialized in animal law. Similarly, veterinary insurance premiums for small animal veterinarians continue to be a tiny percent of annual business costs. Adjusted for inflation, veterinarians are now paying *less* for their malpractice insurance than they were 10 years ago. The AVMA and other organizations have so frequently been making grave pronouncements with regard to the impact of guardian laws on our insurance costs that many now accept this as fact. In an organization that prides itself on evidence-based approaches, this conclusion is, as best I can determine, devoid of actual evidence. In fact, a small study by a large provider of veterinary malpractice insurance in California found that if non-economic damages were capped at \$25,000 per incident, insurance premiums would increase by a grand total of \$188 (Chris Green, *Animal Law Review*, 2004). Lastly, I can find no cases of delayed access to veterinary care as a result of guardian statutes being invoked.

Language is a powerful tool when attempting to define relationships and I understand the argument by those who believe that “owner” is antiquated and limited in its ability to represent society’s changing consciousness of how we interact with animals during our lives. Personally, I am deeply torn between the potential ramifications of not just the issue of guardianship, but also the over-arching concept of non-economic damages. Awarding such compensation to pet owners in association with veterinary malpractice might be a boon to opportunistic lawyers but will that result in an avalanche of frivolous litigation, an increase in the practice of “defensive medicine” and a significant increase in the cost of veterinary care? Conversely, can we continue to honestly argue that animals are mere property when pet owners are willing to pay hundreds and thousands of dollars when their pets are ill despite the fact that the legal system sees these animals as no different than an end table. The human-animal bond cannot simply be a marketing tool to encourage enhanced veterinary care and attendant spending without accepting the obvious implications and sequelae that result. The public will not tolerate what many see as hypocrisy from the veterinary community when it comes to this issue. We can’t have our cake and eat it too; taking advantage of the human-animal bond when it is in our economic interests but invoking the “property” argument when we are negligent in the practice of veterinary medicine.

Guardianship may in fact not be the correct approach to acknowledging the unique relationship that people have with animals. The practical implications of using this term may result in too many legal and political obstacles and prevent more constructive discussion of how to balance competing interests. “Guardian” and “owner” may indeed be legally incompatible terms. Others more thoughtful than I have proposed ways of acknowledging the fact that animals seem to be in a “legal grey zone” somewhere between property and having intrinsic value above and beyond their strict utility. Attorney Carolyn Matlack has championed the concept of “sentient property” and Dr. Jim Wilson proposed a financial spreadsheet approach to determining the costs associated with a lifetime of pet ownership rather than strict market value. Lawyer David Favre, in the *Duke Law Journal* (2000) has proposed the legal concept of “living property” and the New Jersey VMA proposed use of the term “sentient value” as a way to proactively address the public’s concern regarding the profession’s majority view of animals as mere property.

I would assert that most small animal practitioners, and particularly newer graduates, see themselves as subjectively leaning toward the animal’s interests in their triadic relationship with pets and people. We must not get bogged down in the semantic arguments of guardianship while ignoring the more important reality of our evolving relationship to animals. Rather than present unfounded hypothetical sequela as facts, the profession would be better served by a more honest and open discussion of how we can legally and ethically acknowledge the place of animals in our society and our responsibility to them as veterinary practitioners.

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A more detailed discussion of non-economic damages is beyond the scope of this article but the references below may assist the reader in learning more about this issue as it relates to the concept of guardianship.

- 1) Determining the Value of Companion Animals in Wrongful Harm or Death Claims: A Survey of U.S. Decisions and an Argument for the Authorization to Recover for Loss of Companionship in Such Cases, by Marcella S. Roukas, *Animal Legal & Historical Center* (2007).
- 2) Non-economic Damages in Pet Litigation: The Serious Need to Preserve a Rational Rule, by Victor E. Schwartz and Emily J. Laird, 33 *Pepp. L. Rev.* 227 (2006).
- 3) Valuing Man's and Woman's Best Friend: The Moral and Legal Status of Companion Animals, by Rebecca Huss, 86 *Marq. L. Rev.* 47 (Fall, 2002).
- 4) "Man's Best Friend:" Property or Family Member? An Examination of the Legal Classification of Companion Animals and Its Impact on Damages Recoverable for Their Wrongful Death or Injury, by William C. Root, 47 *Vill. L. Rev.* 423 (2002).
- 5) The Future of Veterinary Malpractice Liability in the Care of Companion Animals, by Christopher Green, *Animal L.* 163 (2004)

## Animal Research Book Review

The following book review has been written and submitted by SVME member, Robert C. Speth. Ph.D, Professor of Pharmacology at the University of Mississippi.

The views and opinions of the author do not necessarily represent those of the SVME or its members.

### **An Unchosen Battle**

The Animal Research War  
P. Michael Conn and James V. Parker  
2008  
Palgrave Macmillan  
New York, NY  
ISBN-13: 978-0-230-60014-0  
ISBN-10: 0-230-60014-x

Fighting "The War on Cancer", battling Alzheimer's Disease, and conquering AIDS, are some of the noble efforts of today's biomedical researchers. However, they have been forced into another war. One which has nothing to do with their humanitarian mission. *The Animal Research War* provides a first-hand narrative of the trials and tribulations of one of the world's most respected biomedical researchers, Dr. Michael Conn Associate Director of the Oregon National Primate Research Center, who found himself "in the crosshairs" of animal rights extremists who oppose biomedical research that uses animals. Together with James Parker, the former Public Information Officer of the Primate Center, they provide not only their first-hand experiences with animal rights activists, they also provide convincing rebuttals of the misleading anti-animal research propaganda of the forces of the animal rightists.

Right from the start, this book shows that malevolence is the force that drives the animal rights extremists. The intelligence reports on several animal rights extremists (Chapter 2) reveals that the movement's claims

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of subscribing to the nonviolent traditions of Gandhi are as false as the arguments they make against the use of animals in biomedical research.

Chapter 3 gives a concise timeline of the anti-animal research movement from English anti-vivisectionism to the plethora of today's animal rights activist organizations. The birth of pro-research organizations that oppose the anti-animal research groups is also included, but the bare-bones synopsis of these organizations does not do them justice.

The strategic genius of the anti-animal research organizations is portrayed in Chapter 4, which, perhaps coincidentally, is the longest and most provocative, (e.g., application of the second Golden Rule, page 77) chapter in the book. It details the growing legal forays of animal rights groups attempting to gain *personhood* status for animals which will allow their self-appointed *guardians* to sue for their legal rights. The revelations of the concluding pages of this chapter: *that the ultimate goal of the extremist animal rights movement is the extermination of the human species*, should be a wake-up call to everyone who has been lulled into believing in this absurd philosophy.

While the rest of the book may be anticlimactic, the horror story of the fate of Dr. Michael Podell and his research on drugs of abuse using an animal model of AIDS is a compelling example of how animal rights extremism harms us. The stories of the thalidomide disaster, development of the polio vaccine, the discovery of insulin, and development of AIDS drugs are equally compelling, albeit teasers of the full impact of these events.

Chapter 6 provides a compelling argument against establishing personhood for animals such as that proposed by the Great Ape Project. Chapter 7 [page 133-134] includes a novel argument repudiating the irrational arguments of Tom Regan who has tried to establish a moral basis for prohibiting the use of animals for human benefit. Information about regulations on animal research is also included in Chapter 7. Chapter 8 ends on an optimistic note, suggesting that the good guys have prevailed against these malicious attacks and that there is "Hope on the Horizon" [page 150].

Useful supporting information includes a preface with a glossary of terms used to describe the concepts and mentalities of the opposing sides of the animal research war, Appendix A, a quick reference "20 questions" that can be used to defuse anti-animal research arguments and Appendix B, a comprehensive list of pro-research resources.

While there are many pro-animal research books available, few can provide such a vivid first-hand report from the battleground embedded in a concise, yet comprehensive framework of logical thought.

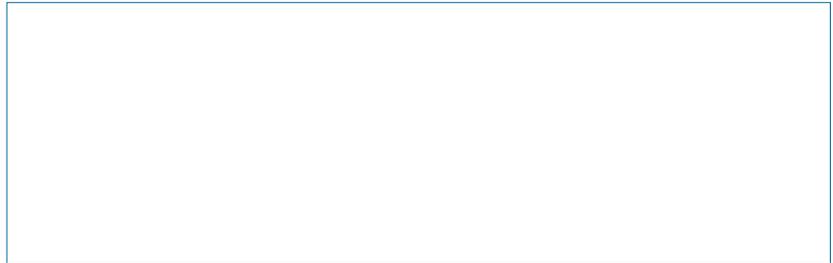
## Cosmetic Surgery in the News

-Following a recommendation from the Animal Welfare Committee the AVMA amended its ear cropping and tail docking policy. The current policy now opposes ear cropping and tail docking of dogs when done solely for cosmetic purposes. The AVMA now encourages the elimination of ear cropping and tail docking from breed standards. The new policy is now consistent with the Canadian Veterinary Medical Association and the American Animal Hospital Association.

-The Humane Care for Animals Act was introduced in Illinois in January 2009. The bill would declare ear cropping and tail docking for cosmetic purposes "animal torture" and subject to Class 3 felony penalties. The bill would take effect immediately upon passage.



c/o Gary Block DVM  
OSVS  
1480 South County Trail  
East Greenwich, RI 02818



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## SVME Mission Statement

The SVME was founded over 10 years ago to promote discussion and debate about ethical issues arising in and relevant to veterinary medicine. The SVME publishes a newsletter, provides a listserv, holds an annual meeting at the AVMA convention, sponsors an annual student essay contest and honors an individual annually with the Shomer Award for outstanding contributions to veterinary medical ethics.

*Individuals interested in information or in joining the SVME can contact Dr. Gary Block (401) 886-6787 or visit the SVME website*

[www.vetmed.wsu.edu/org\\_svme/](http://www.vetmed.wsu.edu/org_svme/)

*to learn more about the organization.*

