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“The Value Of A Pet...Exactly What Is It?”

Not surprisingly, there were thousands (over 57,000 to be exact) of websites to surf. Pets are big business. REALLY BIG BUSINESS. My search not only revealed sites touting pet foods, medications, furniture and treats, but also jewelry, charms, travel accessories, health and fitness. So why do we lavish our pets with such “luxuries”?

The American Animal Hospital Association recently conducted a survey of pet owners in both Canada and the United States. Eighty-four percent of the pet owners in the survey referred to themselves as their pet’s “mom” or “dad”. And just as couples postpone having a family into their thirties, pets are often the training ground for the first child. Pet healthcare, food and day-care with its associated costs are somewhat of a pre-indicator of the investments that accompany parenthood.

Pets appeal to all ages, and socio-economic classes. They are a tool parents use to teach young children responsibility and to fill the void left after the last child leaves the nest. They are eyes to the blind, and companions to the elderly. And the bond between pets and people is used as a bargaining chip for groups lobbying to have current pet “owners” re-classified as “guardians”.

Ownership vs. Guardianship

With a refinement in tactics, the animal rights movement has focused on pets in their campaign to end ownership of animals.

“In the U.S. animal rights groups are pushing for the consideration of local ordinances and state legislation that would reclassify owners of pets as their guardians,” according to Dr. Kent McClure, General Counsel of the Animal Health Institute, CAHI’s U.S.-based sister organization.

The guardianship movement characterizes the change as simply a word change that heightens awareness of the importance of responsibly caring for pets. They indicate that such a change won’t alter a pet owner’s responsibilities.

However, AHl’s Dr. McClure says that “words have meaning, and shouldn’t be used unless their attached meaning is intended. The term ‘guardian’ is a legal term of art with an attached body of law. Based upon a fiduciary relationship, guardians must consider the interests of their ward above their own. A guardian who doesn’t meet expectations can be removed and / or sued by the ward.”

So, if the legal ramifications of the term aren’t intended, then why use the term?

“That is precisely the question that needs to be asked,” according to McClure. He believes that the animal rights groups pushing for the change ultimately do intend to stop people from owning pets. The potential ramifications of guardianship versus ownership are why most veterinary groups, including the American Veterinary Medical Association, are opposed to the change.

Economic vs. Non-economic Damages

A correlative issue involves a movement to allow for the recovery of non-economic damages in litigation involving pets. Under the law of U.S. states, animals are considered personal property, and the potential recovery in litigation is typically limited to economic measures of damage. Approximately 20 different bills touching on some aspect of recoverable damages in litigation involving pets have been introduced in U.S. state legislatures.

“Some of the bills would allow the recovery of damages for the loss of a pet that are not recoverable for the loss of a spouse or child,” according to Dr. McClure. “Allowing the recovery of non-economic damages in litigation involving animals would represent a tremendous expansion of liability, with ramifications far beyond the veterinary profession, not the least of which would be a tremendous increase in animal related litigation.”

The bottom line is that simply because one values the human-animal bond, doesn’t mean one has to place a monetary value upon it.

Fergus-based lawyer, Douglas Jack, who has dedicated his practice to the law as it relates to the practice of veterinary medicine, agrees. “Veterinarians throughout North America should be preparing themselves for significant changes in the law if some of the decisions in recent cases in the United States become precedents. First, the impact of the human-animal bond will lead to significantly increased damage awards by judges and juries; second, and related, malpractice insurance premiums could sky-rocket.”

The Rising Cost of Care

Ultimately, this will lead to more expensive veterinary care that pet owners might not be able to afford. This then becomes an animal welfare issue. Historically, the courts have treated pets as property. Right or wrong, the issue is open for debate. Even the Canadian Criminal Code has been challenged over the past six years relative to its reference to animals as property. A movement has been underway to strengthen penalties for those who commit criminal offenses involving abject animal cruelty. However, a side-arm of the animal rights movement’s argument has been centered on altering the legal definition of “animals as property”. Its a Bill that’s been tossed back and forth between the House of Commons and the Senate for the past year. The jury’s still out on where it will end, and its implications.

In May 2002, Germany became the first country to establish constitutional rights for animals. Following ten years of debate, the new legislation’s end result was that federal constitutional courts are now charged with weighing animals’ rights against other entrenched rights, such as those to conduct product research, or practice religion. Ultimately, there are fears that this could result in tighter restrictions on animal testing for new products and non-prescription drugs.

There will be a definite role for the provincial licensing boards as this issue evolves, according to Dre Christiane Gagnon, Présidente, Ordre des médecins vétérinaires du Québec. “The increasing litigious society in the United States and the shift in society’s psyche to ‘pets are people’, points to a clear need for Canadian veterinarians and their licensing bodies to ensure that there are no breakdowns in the veterinarian-client-patient relationship. Veterinarians are entering an era of traceability and patient empowerment that we have never seen before. At no time in our past, has the need for accurate records been more important.”

This carries over into the debates on substituting compounded medications for those manufactured by the Canadian licensed DIN holder. Companies manufacturing animal health products approved by Health Canada’s Veterinary Drugs Directorate are legally, ethically and financially responsible for adverse events associated with the administration of their products. However, veterinarians and the compounding pharmacy alone are responsible for any adverse event associated with a compounded product.

From Doug Jack’s legal standpoint, the use of compounded products gives rise to some significant “risk management” issues for those practitioners undertaking the compounding. “A veterinarian in Canada has the privilege of employing a vast array of drugs for the treatment of animals; however, with that privilege comes the legal responsibility to ensure that the client is fully aware of the risks inherent with such use and accountability errors result.”

This is beginning to be a very serious issue. An issue which has the ability to alter the fundamental elements of veterinary practice. The American Veterinary Medical Association agrees, devoting 7 sessions at their up-coming July annual meeting on the issue of guardian/non-economic damages.

The battle will wage on south of the border and eventually here in Canada. We can only speculate as to when it will begin to impact Canadian veterinarians.

This is the last issue of Inforum as you know it. CAHI will continue to issue timely articles of relevance to the animal health community, simply in a different format. Watch our website at www.cahi-icsa.ca the Canadian Veterinary Journal and Vet Tech News for more news from CAHI.