

Proposed Legislation: "Lucky's Law"

Introduction

The following proposed bill is in two sections: 1) redefining pet status and 2) holding medical professionals accountable. What we're proposing is that both issues addressed are directly related.

Redefining the status of "pets" to be recognized in the judicial system as "dependent", "family", "sentient", or "companion."

Dependent, Family, Sentient, Companion are defined as:

- A. One who relies on another for financial, shelter, well-being, emotional, or other support;
- B. Unable to do without their guardian or caretaker;
- C. One whose support and maintenance is contingent upon the aid of another.

Guardian as defined as the caretaker and is responsible for ensuring protection and respect for the welfare of pets as sentient beings.

Pet welfare is defined as:

- A. Physical and emotional needs met;
- B. Any harm suffered or at risk of suffering now and in the future.

Veterinarians must be held accountable for any harm or death which was a direct result of their negligence.

Harm is defined as:

- A. Treatment withheld;
- B. Information withheld, including options regarding availability of cutting edge medicinal or surgical treatment and resultant life expectancy;
- C. Performing unnecessary work or unauthorized service;
- D. Performing unnecessary or inappropriate surgery;
- E. Performing unnecessary or inappropriate medical tests;
- F. Improper diagnosis;
- G. Misplacement or loss of a pet;
- H. Engaging in acts of gross incompetence or gross negligence;
- I. Practicing beyond the generally accepted scope of the profession;
- J. Abandonment or neglect of a patient in need of immediate care;
- K. Double billing;
- L. Practicing under the influence of alcohol or other drugs.

In the realm of human rights law, Senate Minority Leader Anthony Hensley, D-Topeka, said that, "we need more transparency." This should also be in the case of our companions.

Medical records relating to veterinary treatment should always be available to the pet's owner. It is often extremely difficult and time-consuming to obtain records of the treatment our pets have received from individual veterinarians and/or veterinary hospitals. That should not be the case.

Records should be kept and be made available to the public documenting funds paid to individual veterinarians and/or veterinary hospitals from the cash reserves of public agencies such as the Board of Healing Arts or the ASPCA - agencies which in turn are financed exclusively by special fees. These agencies are often asked to evaluate professionals or hospitals in cases of possible malpractice. They might be in a position of conflict of interest if there is an undisclosed financial relationship between them and the professionals they are evaluating.

Patients' Bill of Rights:

- A. Veterinarians must be Board Certified, Accredited and Licensed.
- B. Procedures must be explained, and the explanations must address expectancy of results.
- C. Prescription drugs must be dispensed exactly as prescribed. Substitution by pharmacies of unauthorized and possibly less effective generic products for the specific branded medications, which were prescribed, must not be allowed.
- D. Records of complaints related to veterinarians must be maintained, and these records must be available to the public.
- E. Records related to veterinarians who have had trials alleging malpractice must be maintained and made available to the public. Trial results and disciplinary measures imposed upon these veterinarians must be held by a non-partisan agency.
- F. There must be transparency in billing. Bills must clearly explain what they are for, and what tests were performed.
- G. A clear display showing the undergraduate and professional-level schools attended, academic degrees conferred, professional qualifications, licenses held and current registration must be prominently displayed at eye-level in the lobby or waiting room of each veterinary office.
- H. Pet owners must be free to seek consultations for a second opinion with the physician(s) of their choice without a referral.
- I. Access to patients' records must be maintained for the benefit of all parties involved in their care.

J. Compliance must be maintained within each state with the provisions of the applicable "Freedom of Information Law." For example, the Public Officers' Law, Article 6 is New York State's principal statute providing for public access to the records of the State government. The Department's Records Access Officer is responsible for ensuring an appropriate agency response to public requests for access to records.

Disciplinary Measures

- A. A copy of all disciplinary hearing or trial-related communications between veterinarians and the relevant judicial or administrative agencies must be made available to victims' "parents." Hearing and/or trial results are similarly to be made available to the victims' "parents."
- B. A Complaint Review System must be maintained related to veterinarians. New York State Health Department regulations allow individuals to register complaints about the care and services provided by hospitals and diagnostic and treatment centers to their human patients. This should be the same for our animal companions.
- C. Depending on the findings of disciplinary hearings or trials, the following measures are to be imposed on veterinarians who have been found guilty of failing to maintain the standards of the profession in their treatment of their patients:
 - a. License suspension;
 - b. License revocation;
 - c. Monetary fines.
 - i. Monetary fines should be based upon the degree of incompetence, and harm done, and/or treatments withheld. Did the animal die in the prime of its life? Was the animal's life prior to the official determination of the veterinarian's malpractice filled with comfort?
 - ii. Veterinarians claim that one calendar year is the equivalent of seven (7) years in the lives of our cats and dogs.
 - iii. Had the animal been fed the finest quality food? Could the death have been prevented but for the malpractice of the veterinarian?
 - iv. Monetary fines should start at \$50,000 for mistakes or negligent acts following which the animal is still alive without the need for constant medical attention. This is not an arbitrary amount. It is more than a "slap on the wrist" and an amount likely to be considered seriously.
 - v. Mistakes or acts of simple negligence which result in the need for the pet's constant care should be set at

the estimated cost of its life time's accumulated expense, plus the medical expense required to maintain the animal for the rest of its life. In findings of gross negligence this sum should be multiplied by a factor of seven (7) as a punitive measure.

- vi. Wrongful death caused by a veterinarian's malpractice should result in the imposition of a monetary fine equal to the total lifetime expense of maintaining the animal, multiplied by a factor of seven (7). This includes the accumulated cost of the animal's bedding, veterinary care, food, baby-sitting. etc. The harshness of this punitive measure is intended to sharply reduce cases of wrongful deaths by practitioners who presently do not fear or have concern beyond the "replacement cost" of the animal - a totally heartless and unacceptable policy.

Review Process

The review process of any alleged wrongdoing should be done by an outside source that is in no way affiliated with any scientific research organization or hospital. That is necessary in order to guarantee the most honest judgment.

Conclusion

Cats, dogs and other animals are all too often used as unwilling participants in clinical trials, yet they are the last to benefit from the medicines and procedures that are thought to be helpful. They are also often unable to benefit from advances in state-of-the-art technology.

There are far too many instances of professional negligence resulting in the needless suffering and deaths of our pets, who are our beloved companions. The heartless way that these animals are under-valued by the veterinary profession (with the full support of the present judicial system) as mere "objects" which can easily be replaced by the simple purchase of another cat or dog (or other animal) greatly contributes to the low level of professionalism that is so undeniably rampant among practitioners of this profession.

Veterinary medicine is not regulated with the thoroughness of other professions, such as law, engineering, architecture, and accounting, let alone medicine and dentistry. The true value of these animals is not recognized by either the veterinary profession or by the judicial system. These factors contribute not only to the needless suffering and deaths of our pets - they cause enormous emotional suffering and financial loss to the owners of these pets who often spend tens of thousands of dollars sustaining the lives of these animals. My

beloved cat was loved beyond measure. He tragically suffered and died needlessly at the hands of a bad veterinarian.

This unjust state of affairs must change. It is my sincere hope that this proposed legislation - "Lucky's Law" will be taken seriously and be given the proper consideration.