

The professional, legal and ethical issues in VN: a scenario

As veterinary nursing makes the transition from vocation to profession, it will be important that members act according to professional, legal and ethical guidelines. This article discusses a clinical scenario in order to identify how these issues can affect daily practice.

The debate regarding the care and treatment of animals is one that can be traced back through the history of our society. It is not surprising that a highly emotive topic such as this can lead to the experience of dilemmas regarding those animals we are charged to care for. As veterinary nursing makes the journey from vocation to profession, society will demand that its members act in a way that is considered honourable in situations where difficult decisions are required regarding the animal's care. This, it is envisaged, will involve the ability to make the 'right' decision when faced with these dilemmas. The challenge for veterinary nurses is therefore to develop an understanding of how these decisions can be reached. This article reflects on an incident that occurred in clinical practice in an attempt to understand how the decision-making process in day-to-day practice can be developed. It considers the professional, legal and ethical issues involved in the situation in an attempt to better understand how different viewpoints can affect daily practice.

The incident

See *Box 1*. It is easy to see how this incident is fraught with a range of issues concerning both nurses. However, it is beyond the scope of this article to consider both nurses' actions. As such, the actions of the student veterinary nurse (student VN) will be considered as it is felt that this person's actions create the most interesting professional issues in her attempt to deal with this incident.

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Box 1. The incident

In this scenario, a registered veterinary nurse (RVN) and student veterinary nurse (student VN) cover all night shifts at the clinic on a rotational basis. This scenario discusses the dilemma faced by a student VN when the actions of her supervising RVN and her own subsequent actions put her in a perilous position legally and ethically. The student VN in question reported to a senior member of staff that the RVN had been asleep for 4 hours during the night shift during which time she should have been observing and monitoring patients, providing patient care and administering medicines to patients. The student VN reported that patients had not been walked or medicated and, in her opinion, had not received adequate nursing care. She went on to explain that she gave all medications at the correct times during the night, but purposefully did not tick the boxes on the patients' medication charts. She stated that she then drew up saline in place of the prescribed medications and attached these to the front of the patients' kennels to see if the RVN would administer these when she awoke and falsely complete any documentation regarding times when the medications had been administered. She reported to the head nurse that she had done this to prove that the RVN would lie about when the drugs were administered.

The student VN in this incident was clearly attempting to provide tangible evidence of the RVN's wrong doing but, regardless of the justification, those actions also subjected her to professional scrutiny.

Professional issues

In September 2007 the non-statutory register of veterinary nurses (VNs) opened in the UK. Although there is still no legal requirement for VNs in the UK to be regulated, the Royal College of Veterinary Surgeons (RCVS), after a long period of debate, utilized the power under its royal charter to establish the register. As it currently stands, registration is mandatory for all VNs who qualified after 1st January 2003. This is seen as an important step in the journey to transform a vocation into a profession as Mahoney (2003) states, 'Registration is not an option it is a necessity'. However, the author considers that VNs must do more than appear regulated in name; they must, in addition, demonstrate all the virtues of a professional. According to Bowden and

Pullen (2006), this would include autonomy and accountability for practice. Autonomy, according to Lewis and Bateley (1982) cited in Johns (1990), is the independence to make decisions. Whereas accountability is taking responsibility for an action (Killeen (2001) cited in Bowden and Pullen (2006)). In the case of accountability, Bowden and Pullen (2006) suggest that a set of guidelines for the expected behaviour is important for a profession to be held accountable. For VNs, the RCVS *Guide to Professional Conduct for Veterinary Nurses* (2010), sets out the professional standards expected of VNs.

The current issue of the RCVS guidelines represents the second version of the original 2007 copy that was released at the introduction of the register. It must be noted that the author cannot find any reference to how student VNs are expected to abide by these guidelines. This is an interesting issue, student VNs form a large body of the veterinary nursing population in general practice and yet they appear not to have any specific

guidelines or code to follow before they are registered. In human nursing, students follow a distinctly separate code of conduct from qualified nurses laid out by the Nursing and Midwifery Council (NMC). Although they state that this is based on the *Code of Conduct for Nurses*, the NMC importantly recognize the differences between qualified and student nurse and include the responsibility of asking for advice where necessary (Nursing and Midwifery Council, 2009).

In the absence of specific guidelines for student VNs, it is not unreasonable to judge the student nurse's actions in line with the RCVS guidelines. This is, after all, the standard worked towards during training. The first part of the RCVS guidelines includes the 'ten guiding principles'. These are considered to be what the general public should expect from a VN caring for a pet. The first principle states, 'make animal welfare your first consideration in seeking to provide the most appropriate attention for animals committed to your care' (RCVS, 2010). It could be argued that the student VN's act of administering medication, then deliberately drawing up a placebo which was then given at a later time by the RVN, was detrimental to animal welfare because each patient underwent the stress of two injections instead of the prescribed one. Further to this, it is possible to claim the second principle 'ensure all animals that you care for are treated humanely and with respect' (RCVS, 2010) was also ignored by the student VN through this action.

However, the student nurse did comply with the area of the RCVS guidelines that states that VNs who have 'concerns about the competence of a colleague' are 'encouraged to discuss this through the appropriate processes in the place of work' (RCVS, 2010). The student VN, by reporting the action of the RVN to her head nurse, did comply with this aspect.

After reflecting on the use of the RCVS guidelines in this incident, it was found that there are some easily identifiable issues with it. The first, as previously discussed, is the lack of reference to student VNs. In addition to this, the terminology used appears open to interpretation. An example to illustrate this is the term 'animal welfare.' In this incident, it was claimed that the student VN breached the first principle to 'make animal welfare

your first consideration'. However, in order to draw this conclusion it is necessary to define what is meant by animal welfare. The Universities Federation for Animal Welfare (2009) state that animal welfare 'is about the quality of animals' lives' and considers that animals have the capacity to suffer and feel stress. Taking this view, it is possible to argue that the student VN's action was detrimental to animal welfare. This is, however, an opinion and cannot be considered fact. It is not possible to know whether those animals suffered as a result of the student VN's actions and if this suffering affected their welfare.

The RCVS guidelines can also be seen to contradict itself. It states clearly 'A veterinary nurse...who has concerns about the competence of a colleague is encouraged to discuss this through the appropriate processes in the place of work' (RCVS, 2010). However, it also states that veterinary nurses must not 'speak or write disparagingly about another professional colleague' (RCVS, 2010). It could be argued that it is not possible to report a concern about competence without speaking disparagingly.

Following the establishment that a breach in professional conduct has occurred, the RCVS' advice note on whistleblowing considers that in some situations it is necessary to bring professional misconduct to the attention of the RCVS professional conduct department (RCVS, 2009). For VNs, however, the RCVS still have little power in the area of disciplinary action. When non statutory regulation was introduced in 2007, the profession was informed that a disciplinary committee would be created to deal with matters concerning RVNs' professional conduct. This, after a period of delay, was introduced in of April this year. The establishment of a disciplinary framework for members of a profession can further be seen as an important step in the quest for professional status. Without this, employers are ultimately left to deal with cases involving professional misconduct regardless of their seriousness. Furthermore, again no reference to the fate of student VNs who are involved with cases of professional misconduct can be found.

Legal issues

The legal system in England and Wales is divided into two main areas: criminal law and

civil law. A VN, during the course of practice, is subject to both of these types of law and it is essential that they understand their responsibilities under each of these.

Criminal law

Criminal laws aim to protect people from harm and are identified by acts of parliament (Gray and Wilson, 2006). The Veterinary Surgeons Act 1966 is an important example that governs who may perform veterinary care and treatment in the UK (HMSO, 1966). In addition to this, several other pieces of legislation aim to protect animals and those considered relevant to the scenario highlighted in this paper (Box 1) are discussed below.

The Animal Welfare Act (2006), according to Defra (2009), sets out the responsibilities of a person who is charged with the care of an animal. It makes clear that there is no distinction between persons responsible on a permanent or temporary basis. As such VNs are held liable for the welfare of patients they are charged with and failure to comply with this could lead to prosecution as a summary offence. The animal welfare act states that

'A person commits an offence if an act of his, or failure of his to act, causes an animal to suffer, he knew, or ought reasonably to have known, that the act, or failure to act, would have that effect or be likely to do so, the animal is a protected animal, and the suffering is unnecessary.'

(The Animal Welfare Act, 2006)

A decision of guilty in summary offences rests with a magistrate (Gray and Wilson, 2006). In order to decide if the student VN broke the law, it would be necessary to define the term 'suffering'. This according to Lord Hunter in the case *Patchett v Macdougall* (1984) 'imports the idea of the animal undergoing for however brief a period, unnecessary pain, distress or tribulation'. Based on this distinction, it could be argued that the student VN did break the law by causing animals to suffer the unnecessary pain of two injections instead of the prescribed one.

Veterinary Medicines Regulations (VMR) (2005) according to the RCVS (2008) controls the use of veterinary medicinal products in the UK. These regulations state that only a

veterinary surgeon is allowed to prescribe medication from the category Prescription Only Medication-Veterinary (POM-V) (Veterinary Medicines Regulations, 2005). Sodium chloride is a POM-V and as such it constitutes an offence for any other person to prescribe this drug to an animal. The act of drawing up and allowing the RVN to administer saline without prior authority of the vet could mean that the student nurse broke this law.

Civil law

Civil law concerns the loss or damage experienced by a person through an act or omission of another (Gray and Wilson, 2006). Civil claims normally result in the award of compensation that aims to return the wronged party to their original state (Earle, 2006). Gray and Wilson (2006) suggest that two of the most common civil actions occurring in veterinary practice are negligence and breach of contract.

Negligence is 'the failure to act with the prudence that a reasonable person would exercise in the same circumstances' (WebDictionary, 2010). In order to claim negligence, a party must establish the existence of three conditions. These are duty of care, breach of this duty and reasonable foreseeable harm. Earle (2006) states that VNs have a duty of care to their clients, their colleagues and their employer, but importantly not to their patients. According to Earle (2007), animals are considered a person's possessions in law and as such any claim of negligence must result in loss to the owner not the animal. Because of this, it would not be possible to 'sue' the student nurse for negligence, as although her action may have caused harm to the animals, the clients did not sustain any loss as a result of it.

A further aspect of civil law involves breach of contract. In order for a contract to be formed several criteria must be met according to Gillhams (2008). These are: the involvement of at least two parties; a pledge to do or not do something plus agreement to this (offer and acceptance); the expectation from all parties that they are entering into a binding contract (intention to create legal relations); the ability to enter the agreement (capacity) and consideration, which they state 'represents the value in the contract'

(Gillhams, 2008). This usually involves the exchange of money for goods or services.

There are several forms of contract that exist in veterinary practice, the most obvious being the contract between a client and practice to provide care for an animal. Another contract that exists is between the employer and employee. This according to Directgov (2009) 'is an agreement between employer and an employee which sets out their employment rights, responsibilities and duties', which are laid out in the terms of an employee's contract. Employees in the hospital are given a copy of their contract and these are standard across all nursing staff. Employees are required to sign a copy of this to demonstrate that they agree to abide by these terms. If either party breaks the terms of this contract then the other is able to sue for breach of contract (Directgov, 2009).

In the incident described above, it is possible that the student VN broke the terms of her contract. This makes clear that employees are expected to be familiar and comply with hospital rules. The 'rules' in this case would include the prescribing of POM-V medications to animals by vets only as described above. However, as no loss occurred to the practice, it would be unlikely that she would be sued for breach of contract by her employer.

Ethical issues

Ethics is defined by Rollin (2006) as 'the set of principles that govern people's views of right and wrong'. Ethical decisions can be seen in everyday life and Rollin (2006) asserts that most people make these decisions without conscious consideration of them. This is because, he states, we are taught right from wrong as we grow up. However, it can be seen that these learned ethics are not always enough when faced with more complicated situations. Mullan (2006) suggests a four step approach for VNs in order to assist them when making an ethical decision in practice. This can be seen in *Figure 1*.

In the scenario outlined in this paper (*Box 1*), it is not possible to know if the student VN consciously considered the first two steps when deciding on the course of action to take without enquiring. However, it is possible to analyze her actions in line with step three in an attempt to understand the decision-making process used.

Deontology, according to Rollin (2006), examines a situation in terms of one's duty regardless of the consequences. In this case, the student VN may have felt very strongly that she had a duty to highlight the RVN's wrongdoing and as such she chose the course of action described, despite the consequences to herself or her patients.

The criticisms of deontological theory are apparent in this case. As Mullan (2006) states the consequences of an action are at times significant. In this scenario, the consequences of the student VN's action can be identified as poor animal welfare and subjecting herself to professional scrutiny. In addition to this, Mullan (2006) asserts that when considering a deontological approach, it is important that the rule applied must be followed in all similar circumstances. It can be seen that a duty to highlight our colleagues' professional wrongdoings would quickly result in an extremely negative working environment. The theory also does not allow for any contradiction in duties to exist (Mullan, 2006). For

Figure 1. Four step approach to ethical decision making (Mullan, 2006).



example, the duty to highlight questionable behaviour in this case contradicts the duty to not cause animal suffering.

Reflecting on this approach, deontology on the surface appears to be an excellent method of decision making, encouraging one to ask oneself 'what is my duty here?'. However, it can be seen that ignoring the consequences of the action is not necessarily always the best thing to do. In contrast to this approach, consequentialism is the branch of ethics that examines the outcomes of an action in order to decide if that action is right or wrong (Rollin, 2006). Utilitarianism is a division of this type of ethical theory, which holds that an action can be judged as right if it produces the greatest happiness for the greatest number (Mullan, 2006). In order to accomplish this she states that it is necessary to weigh up the costs and benefits of an action and compare this to the costs and benefits of all alternatives. It is possible that the adoption of a utilitarian approach by the student VN may have led to an alternative and more favourable decision.

The final step in the decision-making process, according to Mullan (2006), involves minimizing the impact of the decision. It is not possible to know if the student VN considered this, however, it could be argued that her act of using saline as a placebo rather than another substance did demonstrate awareness of the need to minimize the consequences of her actions.

The student VN, following a deontological approach may have redrawn up the medications instead of saline. This would result in the animals being double dosed with drugs when the RVN gave them rather than receiving a harmless dose of saline. This would have a far greater impact on the animals overall however.

It is clear that the ethical issues involved in this case are not as clear-cut as the professional and legal issues. Rollin's (2006) definition of ethics above highlights the personal nature of ethical decision making and as such it is difficult for anyone else to fully appreciate another's ethical standpoint. Professionals, however, must learn to embrace alternative approaches to ethical decision making according to Rollin (2006). If VNs wish to be classed as professionals, they must too. This is especially evident in the scenario highlighted in this paper (Box 1) where it is argued an alternative approach may have led the student VN to a more favourable outcome for all involved.

Conclusion

In this article the professional, legal and ethical issues involved in the incident above have been considered. This has highlighted some interesting points that are considered relevant to the professional development of veterinary nursing. It has been shown that although veterinary nursing is showing signs

of developing into a profession, through the introduction of the register of VNs and the *Guide to Professional Conduct*, there is still a way to go. The disciplinary committee has now been established and can be seen as an important step in the quest for professional status. In addition to this, the professional responsibilities of students in the UK are yet to be considered. It should be stated clearly how students are expected to behave and who has responsibility for them. In addition to this VNs have a legal responsibility to work within the legislation governing practice and to act in a way that does not leave them open to claims of compensation. This importantly includes breach of contract by employers as well as the general public. Finally VNs must examine their own personal ethical response to a situation and consider before acting if this is the appropriate course of action for a professional to take.

Although it cannot be known for definite, it is felt that had the student VN considered the professional, legal and ethical viewpoints of her action before this was undertaken, she would have chosen a different course. This is an important lesson for VNs. The days of responding to a situation without careful consideration of the outcomes are gone, it is time now for VNs to accept that they will be called to account for their actions and that the defence of 'but I am just a nurse' is no longer one that will stand. VN

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