Reference animals-537035: CLINICAL PRACTICE GUIDELINES: LEGAL IMPLICATION IN VETERINARY MEDICINE

Dear Reviewer 1,

thank you very much for your comments. We have revised the manuscript in accordance to your requests as follows:

- simple summary/abstract: in line 15, considers more carefully damages… liability cases“ – in the remaining part of the paper there is no evidence that there is an increase in liability cases. Please provide some citations or numbers of legal cases illustrating the stated increased consideration of vet malpractice and liability cases.
We have inserted a note (See note no. 10).

- line 23: please give more evidence for the statement that this in turn has led the legal system to assess…“ – later in line 56 it is mentioned that the legal system more carefully should…“ – but I am missing the explanation/demonstration that the legal system takes damages in vet practice more serious.
We reiterate that the possibility to assess damages in veterinary malpractice and liability cases is consequent to growing recognition of the significant bond between some people and their companion animals. For example, when a companion animal dies, its owner can experience grief in a manner similar to when a human family member dies.
In fact, many claims brought against veterinarians relate to the death or injures of an animal as result of intentional or negligent conduct. In recent years, most courts have refused to permit pet owners to recover damages for emotional distress or loss of companionship (though ancient, for example, See Robin Cheryl Miller, Annotation, Damages for Killing or Injuring Dog, 61 A.L.R.5TH 635, 650-52, 1998; See Kay Lazar, Courting a Pet Cause-Owners Push for Legal Rights of Furry Friends, BOSTON HERALD, Jan. 28, 2001 )
Really, another factor leading to evaluate damage is amount of damage relates to the economic value of the animals themselves.

- line 39-42: Presumably this holds for dogs and cats, but not for pigs and poultry. I would suggest that you specify for which species you intend the cpgs to play a legal role? (If you also include veterinary practice for livestock, then vet practice with regard to food safety should be considered)
We have considered the companion animals. We have specified it in the text and insert a note after keywords.

- lines 43-45: Some of the references are quite old and (at first glance – I haven’t read them) I got the impression that they are focussing on describing veterinary advancements – similar to human medicine. I am missing citations who reflect on the similarities / differences between human and veterinary medicine.
We have changed the references.

- line 48. As the link to legal aspects is stressed throughout the paper, please provide more details on how the role of animals has changed (e.g. in Switzerland since 2002 in the Zivilgesetzbuch „Tiere keine Sachen mehr“ (Art. 641a Abs. 1 ZGB), Article 285 of the Austrian Civil Code, which became operational in 1988, provides that ‘animals are not objects; they are protected by special laws’, German Civil Code, § 90a or in Portugal just recently https://www.theportugalnews.com/news/animals-no-longer-considered-things-from-may/41295”). Please give more details on the legal position of animals and the recent changes (at least in the countries from the authors) and explain how this related to the CPG/SOC.

We have provided more details.

- line 59: Please provide a citation, particularly of CPG which have been implemented (or attempts there of).

We have added references.

- line 61/62: I think there is a wealth of literature and on-going discussions in human medicine about CPGs. Please reflect on the pros and cons in human medicine and how they apply in vet medicine, similar or different problems?,

We have provided to do it.

- line 69: presumably strengthening the bond between humans and dogs/cats (as in the Special Eurbarometer (2005) being asked: “have you ever visited a farm which rears animals?” 31% respondents reply „never“ and 13 „Once“. Please describe clearly for which species you think the CPGs should apply? And how this then will affect the different vet specialisations?

In this paper we refer to companion animals, especially dogs and cats as above specified.

After line 148 we added a sentence about the specialists.

- line 90: could you describe more in detail which different principles apply?

We are referring about ethical principles commonly used in healthcare ethics, i.e. principle of respect for animal rights and dignity, of justice, of beneficence, of non-maleficence, of continuing professional development and especially to principle of science and conscience, where conscience literally means “with knowledge”. In fact, acting in good conscience represents the essence of individual integrity for the veterinary practitioners.

Each of these principles provides you with an additional foundation and tools to use in making ethical decisions.

- line 98: I think it is crucial also to discuss more in detail who has the role/responsability to „promulgate“ such CPGs. What happens if they contradict each other. For Europe the American CPGs might provide some informations, but I think they cannot be binding as pathogens and vaccines differ.

Really it is important know the process used to develop the CPS, the extent to which they are evidence-based, the degree of consensus about them, and whether they are up to date (to be used as evidence in courts of law) rather than who has the role to promulgate them.

Guideline developers are unlikely to be held liable for any negative consequences of implementation of the guidelines, particularly if the processes of preparation and the limitations of the guidelines are clearly described. In general, the following principles apply:

• guidelines should be predominantly summaries of the evidence;
• guidelines should have an expiry date;
• an independent review of the guideline development process is recommended;
• areas of disagreement in the guidelines should be acknowledged; and
• guidelines should not be unduly prescriptive and must allow for cases that call for management that differs from what is recommended.

- line 109: I think you mention here a very relevant point, please expand and give some citations/cases showcasing the stated mismatch.
We have provided to do it.

- line 125: I would suggest that you mention SOCs earlier (i.e. abstract / introduction)
The standard of care is been mentioned in the abstract and in the introduction.

-line 150: does this apply to veterinary medicine, too?
Yes, of course.

-line 152: could you provide cases (or numbers how many times vets have been sued for these aspects?).
We have provided some example cases (See note no. 11).

- line 181: please provide more details (when, where, which CPG was considered to be relevant, who provided the CPG)
To diminish the chance of both a disciplinary investigation and/or a civil claim it is important that veterinary practitioners comply with the guidelines set out by their respective statutory bodies. In general, veterinarians are expected to conduct their practice in accordance with the conduct of a normal and prudent practitioner. The respective statutory bodies place great importance on the creation and maintenance of medical records as well as on obtaining informed consent from the client. Complying with these standards before undertaking any course of treatment will enable the veterinarian to better avoid disciplinary investigations from their statutory body and the advancement of civil claims. However, setting a standard of care (SOC) of gross negligence or reckless or intentional misconduct prior to civil liability in emergency situations exists by statute in some US states and should be adopted if not already established. But where case law has not established an applicable SOC and where the SOC needs clarification, the use of CGPs could be considered relevant. In fact, the CGPs are direct enough to provide effective guidelines to judges.
The procedures used to develop the statements are increasingly based on a thorough evaluation of the evidence, including, when appropriate, meta-analysis of published research studies on the outcomes of various treatment options, rather than the consensus of expert panels. (Kochevar DT, Fajt V: Evidence-Based Decision Making in Small Animal Therapeutics.Vet Clin Small Anim, 36:939-942, 2006).

- line 199: please avoid the usage of the word “correlation” as this wording does not necessarily imply causality. Presumably you mean here that there is a clear causal association between the action of the vet which led to the damage.
We have changed the word correlation in association.

-lines 220 please give examples
When groups of professionals (for example, specialties or “schools” that have different approaches toward the diagnosis or treatment) disagree on the relative merits of various types of interventions, to prove their point of view, they can usually present a number of scientific publications that support it.
When guidelines are produced non-systematically by various interest groups, only by systematically searching and combining studies and/or current professional practice is it possible to extract a balanced point of view.

- lines 239: Please expand on this – that the vets themselves are possibly resistant to the implementation of CPGs.  
**We have reformulated the phrase and added the reference.**

- line 256/7: Has this happened in human medicine?  
Yes

Best regards,

Prof. Annamaria Passantino