

9.2

# Acting without consent

The scenarios we have looked at so far have involved cases where obtaining consent has been difficult. But, acting when consent is not fully obtained is not the same as deliberately going against the wishes of a client. Here we consider a situation where a vet is tempted to do just that.

## SCENARIO

### REHOME WITHOUT CONSENT

▶ You're a small animal veterinarian with several years of experience in a multi-vet small animal practice in central London. A newly graduated colleague has just asked your advice. She was presented with a healthy and well-socialised two-year-old intact male West Highland White Terrier called Archie. The dog's owner, Mr G, is moving to a different apartment that does not allow dogs, and has requested euthanasia. When your colleague initially expressed discomfort at the request, Mr G apparently told her that he would let the dog loose on the street. When she suggested that he think about adoption he said he could not bear to have someone else own him. And so your colleague accepted the client's request and fee for euthanasia. After Mr G leaves, one of the nurses asked if she could give the dog to her aunt, who lives several hundred miles away. Apparently she would provide the dog with a wonderful home, and it would be extremely unlikely the client would ever find out.

### What should you do?



9.11 Can you rehome a dog without owner consent?

PHOTO ANNE FAWCETT

## RESPONSE

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▶ Obviously the best option for the patient is not to be euthanased, which is contrary to the client's initial request. Accordingly, this case should have been handled carefully and sensitively from the beginning.

Your colleague should have more thoroughly explored the possible options with this client.

She should have explained that while euthanasia might initially appear to be an option, as a veterinarian her primary duty is to her patients, and that it is clearly not in the interests of a young, healthy dog to be euthanased and denied the many years of life he would otherwise be expected to enjoy. Hence, unfortunately she

would be in violation of veterinary professional ethics if she performed euthanasia in this case. This might also be an appropriate time to check that the client understands what euthanasia really means. There have been rare cases in which, after a dispute has arisen, clients have alleged that they did not understand that words such as “putting to sleep” actually implied death. Accordingly, the veterinarian should delicately confirm that the client is indeed requesting euthanasia, and that this is irreversible.

She should also have more thoroughly explored the owner's concerns. Through open-ended questioning and good communication techniques she should have tried to determine the reason for Mr G's reluctance to have the dog live out his life in another caring home. His assertion that “he could not bear to have someone else own him” suggests strong attachment. It may be that his reluctance to have someone else own his dog stems from an insufficient understanding of the rehoming process and options. These might have been explored with him further. And your colleague might have noted that he obviously cares a great deal for his dog, and might have sensitively asked him to weigh any distress he might feel against the potential for his dog to enjoy the remainder of his life.

Given the client's threat to let the dog loose, the ramifications of abandonment should also have been discussed. In some jurisdictions this is actually illegal, which the owner would probably not have been aware of. Additionally, this could be likely to result in the dog being collected by animal control officers, placed in a shelter and possibly adopted contrary to the owner's stated wishes – without him even having any control over the ultimate choice of new home.

The owner may be initially reluctant to discuss some of these matters. However, by trying to empathise with the owner about his difficulties, handling the case sensitively and explaining that any veterinarian nevertheless has a duty to discuss

these matters when considering a case of euthanasia, the owner may consent, and indeed may benefit from having thought through the case more thoroughly. It could also be emphasised that such a discussion may also help the owner to be as certain as possible about their choice, which should serve to minimise any later regrets.

If, after such a discussion, the owner remained adamant about his request for euthanasia, the veterinarian could explain that euthanasia in the absence of a sound medical reason would contravene her personal and professional ethics, and politely offer to refer the client to another veterinarian for a second opinion. As stated by the RCVS (2015a) Code of Professional Conduct for Veterinary Surgeons, “No veterinary surgeon is obliged to kill a healthy animal unless required to do so under statutory powers as part of their conditions of employment.” And further, “Where, in all conscience, a veterinary surgeon cannot accede to a client's request for euthanasia, he or she should recognise the extreme sensitivity of the situation and make sympathetic efforts to direct the client to alternative sources of advice.” However, the owner should be warned that another veterinarian might also decline the procedure. Indeed, in the UK for example, most veterinarians would decline the euthanasia of a healthy animal unless wider animal or public health was endangered.

Unfortunately, however, in this particular case such discussion was much briefer, and your colleague did agree to the request. She also accepted the client's fee for euthanasia. In a legal sense, she entered into a contract with the client to provide a service. A range of consequences could now occur if she failed to fulfil her contractual obligation to complete the euthanasia.

Particularly given the lack of in-depth discussion previously about alternatives, it would be appropriate for your colleague to contact the client again before proceeding, and explain that a new

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option has arisen, namely, rehoming in a caring home so far removed from the client that it would be unlikely he would ever need to see his dog again, if that experience might distress him. Your colleague could offer this as a new alternative, along with a refund of the euthanasia fees. If the client accepted this new option, then the dilemma would be resolved.

If however, despite your colleague's best efforts, the client continued to request euthanasia – that is, declined to release your colleague from her contractual obligation – then her dilemma would remain. On the one hand, if she declined the euthanasia, a range of consequences could accrue, particularly if the client found out. As well as being very unethical, attempting to deceive clients in this way can be unsuccessful in the long term. There have been numerous cases when clients have later learnt clinical truths that were previously denied to them. This has occurred when clinical notes are transferred to a new veterinarian, or when a falling out occurs among certain staff members, who then choose to report unethical activity.

If the client were to later discover that his dog had been rehomed contrary to his expressed wishes, he might well choose to pursue the case further, e.g. by complaining to the veterinary licencing board that malpractice had been committed, or by launching independent legal action (e.g. alleging theft of the dog, or claiming other damages). He might even attempt to publicise the case, to damage the reputation of the veterinarian or practice within the community. Public

trust is extremely important for the successful functioning of the veterinary profession, so it is unsurprising that veterinary licencing boards take a very dim view of professional dishonesty by veterinarians, and sanctions in such cases are likely to be significant. This could mean the temporary or even permanent (albeit less likely) loss of your colleague's licence to practice, as well as financial damages, if the client launched independent legal action.

On the other hand, it is clear that your colleague's first duty is to her patient. This axiom of veterinary professional ethics is made clear in the statements of veterinary associations. The AVMA (2016) Principles of Veterinary Medical Ethics, for example, state that, “Veterinarians should first consider the needs of the patient: to prevent and relieve disease, suffering, or disability while minimizing pain or fear.” The RCVS (2015a) Code of Professional Conduct for Veterinary Surgeons similarly states that, “Veterinary surgeons must make animal health and welfare their first consideration when attending to animals.” Euthanasing a young, healthy and well-socialised dog is clearly not in its interests. As well as constituting a clear violation of the veterinarian's primary duty to their patients, such actions may well contribute to an inability to live with oneself, burnout and stress. These factors may be more important than are first apparent, given the relatively high levels of depression, anxiety, stress and burnout within the veterinary profession (Hatch, et al. 2011).

Hence, if the client cannot be dissuaded from his request for euthanasia, your colleague clearly faces a very serious dilemma. She is essentially challenged by the question, “How far should I be prepared to go, to uphold my primary duty to the patient under my care?” It could even be that choosing to save the life of this patient through deception ultimately results in the loss of her veterinary licence, impacting her ability to help other animals in the future. This outcome is not certain,

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but a temporary suspension of licensure, at least, could be a real risk, should her veterinary licencing board find out about her dishonesty.

The values placed on various competing factors, and hence choices made in response to this dilemma, will vary among individuals. Clearly, however, such cases should be handled more thoroughly from the outset, to minimise the occurrence of such dilemmas. And if presented with a dilemma already extant from which one cannot escape, the various outcomes and their probabilities should be very carefully weighed.

WHATEVER course of action you choose when faced with euthanasia of a healthy animal you can be sure that you are not alone in having to face this problem. In one small survey of 58 veterinarians in the UK most had faced being asked to euthanase animals they did not want to, and for a few this occurred as regularly as monthly (Yeates & Main 2011). There are also media reports of dogs that had supposedly been euthanased appearing alive and well elsewhere. In one case, a dog was rehomed after the owners presented the dog for and paid for its destruction due to aggressive behaviour. The dog subsequently attacked other animals and was traced back to the original family via a microchip, 18 months after it was supposed to have been destroyed by a veterinarian (Armitstead 2013).

#### ACTING WITHOUT CONSENT

### What would you do?

**You are working in a busy veterinary clinic where it is not unusual for clients to “drop off” animals for a consultation. Your nurse brings in the next patient – an apparently healthy six-year-old cat. The cat, apparently named Lily, is booked in for euthanasia. The client, a Mrs S, signed and dated the consent form at reception but stated that she did not wish to be present for the procedure and could not wait.**

**You perform a physical examination. The cat appears to be in excellent health. What do you do?**



△

**9.12** A healthy cat is left at the clinic for euthanasia, but no history is provided.

**PHOTO** ANNE FAWCETT