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Chapter # [to be input by Editors]: Chapter Should complementary and alternative veterinary medicine be considered malpractice? An ethical-legal analysis

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1.1 Background

In 2018, I (MM-S) was involved in a debate on the use of Traditional Chinese Medicine (TCM) with a so-called "integrative" veterinary practitioner. This veterinarian claimed publicly that animal acupuncture was a thousand-year-old practice, and that hip dysplasia was caused by Jing deficiency. Faced with such claims, I presented an evidence-based view of TCM in a series of press articles and on social media, aiming to steer away from folklore. Later, during a veterinary conference, I used analogical reasoning to argue that acupuncture and TCM were based on similar principles as humoral medicine (Magalhães-Sant'Ana 2019), and were not proven more valid than homeopathy, Bach flower remedies, reiki, or predestination. This stance didn't sit well with the alternative vets in the audience. Instead of triggering debate focusing on scientific evidence, I was accused of defaming traditional Chinese veterinary therapists and things escalated quickly. The situation became so tense that I had to be escorted out of the room. Subsequently, those accusations materialised into a defamation claim – a strategy frequently used by alternative therapists to silence their critics (Jarry 2019) - of which I was acquitted (Loeb 2020).

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This story illustrates how the field of complementary and alternative medicines (CAM) is rife with legal and ethical issues. This time, the defendant was the conventional vet, but should veterinarians employing ineffective or potentially harmful therapies be held accountable? Shouldn't CAM be held to the same standards as conventional therapies to be safely administered, prescribed, or referred? More specifically, should the use, prescription, or referral of unproven or ineffective veterinary therapies be considered malpractice? In this chapter we will delve into the legal and ethical dimensions of complementary and alternative veterinary medicines (CAVM), including recommendations for the future.

1.2 Alternative medicine – what's in a name?

Several hurdles arise when dealing with CAM (or in the words of Edzar Ernst, SCAM, the so-called alternative medicines (Edzard Ernst 2018)), particularly in the veterinary field, namely the lack of clear definitions, and no harmonization in terms of regulation. The term "alternative medicine" is "*broadly used in the Western world to refer to a group of therapeutic systems and interventions that exist largely outside of the established, conventional healthcare system*." (Chatfield 2015). In humans, CAM have been categorized into distinct domains based on their underlying principles and therapeutic approaches, namely biologically based practices, energy therapies, manipulative and body-based methods, and mind-body medicine (Chow et al. 2023). It is not possible to make an exhaustive list of all CAM used in animals but these include homeopathy, acupuncture, chiropractic, herbal medicine, aromatherapy, low-level laser therapy, prolotherapy, orthomolecular therapy, to name but a few (McKenzie 2019). In Figure 1.1 we provide a division of Complementary and Alternative Veterinary Medicines (CAVM) into four domains (energy therapies, natural therapies, manual and physical therapies, and post-modern

therapies), and acknowledging that this is not an exhaustive classification, but merely illustrative of the diversity found among these therapies.

Energy therapies	**Natural therapies**	**Manual and physical therapies**	**Post-modern therapies**
Acupuncuture and acupressure	Herbal Medicine	Osteopathy	Ozone therapy
Reiki and energy healing	Cannabinoids	Chiropractic	Prolotherapy
Pranic healing	Nutritional therapy	Massage	Orthomolecular medicine
Magnetic Field Therapy	Traditional Chinese Medicine	Reflexology	Low-level laser therapy
Bach Flower Remedies	Naturopathy	Tai-Chi-Xuan	Homotoxicology
Homeopathy	Aromatherapy	Yoga	Pulsed Electromagnetic Field Therapy

< Table 1.1 - Four domains of Complementary and Alternative Veterinary Medicines: Energy therapies (healing is achieved by regulating the flow of a vital energy or force), Natural therapies (healing is based on ingredients found in nature), Manual and Physical therapies (healing through exercise and manipulative interventions) and Post-modern therapies (novel therapies based on the combination and reshaping of concepts or references from the past) >

The main problem with the suggested classification is that it does not account for the fact that therapies within the same domain may have very little in common and can be based on different (and even opposing) philosophical foundations. In effect, CA(V)M are more easily defined for what they are not than for what they are (Ernst, Cohen, and Stone 2004) and others have preferred to use the term Non-Conventional therapies (NCTs) to refer to therapies based on

unscientific principles and/or lacking reliable scientific evidence of effectiveness (Domingues et al. 2022). A non-conventional therapy is considered “complementary” or “alternative”, provided it is used together or in place of conventional medicine, respectively.

As with every complex topic, there are grey areas in these definitions. Acupuncture for example, can be divided into the so-called Western acupuncture, arguably based on modern scientific principles, and traditional acupuncture, based upon the principles of Traditional Chinese Medicine. Is the former as much of an alternative therapy as the latter? And consider what is one of the most popular alternative therapies of the moment: cannabinoids. As their pharmacokinetic mechanism is unraveled, clinical research points towards their usefulness in some pathologies, despite the low quality evidence (Morrow and Belshaw 2022). Does this mean that cannabinoids are conventional after all? Finally, some therapies are deemed conventional because they are based on plausible pathophysiological mechanisms but have been used for decades despite little to no evidence of effect. That is arguably the case of alpha-amylase to treat oedema, chondroprotectors to control osteoarthritis or antihistamines to treat symptoms of allergic diseases. Should they be considered alternative therapies or at least judged in the same way as these?

1.3 Regulatory approaches to CAVM

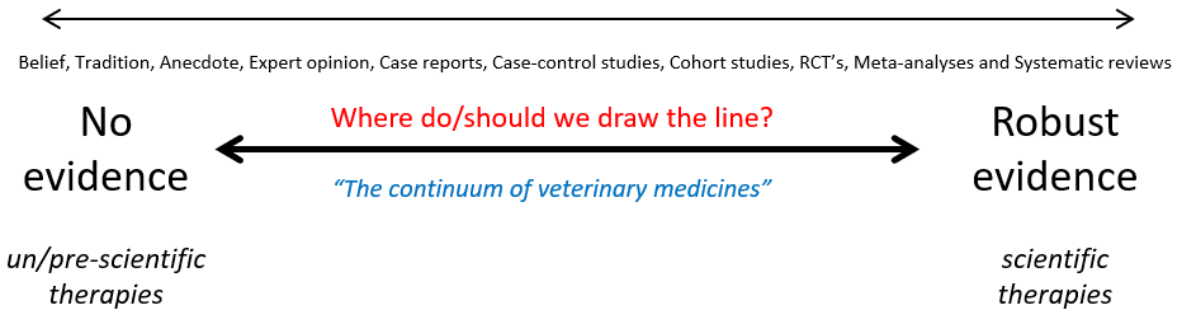
David Ramey (2003) identifies three challenges emerging from the regulation of CAVM: defining what constitutes acceptable standard of care, whether non-veterinarians should be allowed to apply them, and the view that CAVM are not acts of veterinary medicine and

therefore should not be regulated The lack of clear definitions constitutes an additional challenge to establishing consistent regulations of CAVM. In Europe, for example, there is no harmonized regulatory framework for CAVM and veterinarians in different countries seem to rely more upon certain alternative therapies for cultural and geographic reasons rather than scientific reasons. In the UK, the debate regarding alternative therapies in veterinary practice has been mostly dominated by homeopathy (Limb and Waters 2018; Waters 2018; Loeb 2018), whereas in Portugal the use of homeopathy seems marginal and Traditional Chinese Medicine takes the main stage with acupuncture in particular being viewed by a large proportion of the veterinary community as a respected practice[1], as if it was conceptually, historically and scientifically validated (Magalhães-Sant'Ana 2019).

The fundamental regulatory dilemma concerns the conflict between the necessity to consider CAVM as acts of veterinary medicine in order to exercise control over their use, and the danger of, in doing so, legitimising procedures that have no scientific validity (Schommer 2012). Finding a balance between encouraging innovation and protecting animals from ineffective, or even fraudulent, practices becomes a delicate ethical conundrum. As shown in Figure 1.1, veterinary therapies (either conventional or non-conventional) can be arranged in an evidence-based continuum, ranging from those for which no evidence is available and are based on belief and tradition to those for which effectiveness has been demonstrated by systematic reviews and meta-analyses. Restrictive regulations of CAVM may limit the availability of prospective

[1] These differences are reflected in the fact that in the UK we can find The British Association of Homeopathic Veterinary Surgeons (www.bahvs.com) whereas in Portugal there is no such organisation. Both countries have veterinary acupuncture organisations (The Association of British Veterinary Acupuncturists, www.abva.co.uk, and the Associação Portuguesa de Acupuntura Médico-Veterinária, www.apamv-assoc.pt).

therapies, denying animals access to practices that may have a therapeutic effect, whereas a more lenient regulatory approach may expose animals and their owners to unproven or potentially harmful practices. The challenge lies in determining where to draw the line between what should be considered an acceptable or unacceptable standard of care.



< Figure 1.1 - The continuum of veterinary medicines in terms of evidence and the challenge of where to draw the line between what is deemed acceptable standard of care >

Regulatory bodies in various jurisdictions have approached the regulation of CAVM differently, and their positions have evolved over time (Ramey 2003). For example, in their 2009 Position Statement, the College of Veterinarians of Ontario (CVO) decided to integrate complementary and alternative therapies into mainstream veterinary practice, considering that they could only be performed by veterinarians or under their supervision or delegation (CVO 2009). This position, however, was recently changed to a more permissive approach and the CVO no longer considers what they now call Non-Conventional Therapies as acts of veterinary medicine based on the demand of the public for such therapies and their inability to retain control over their practice (CVO 2021). The opposite position was taken by the Portuguese Veterinary Order (Ordem dos

Médicos Veterinários) in 2019, when they attempted to include acupuncture in the Veterinary Act which was at the time submitted to the Portuguese Parliament. The Parliament passed a preliminary version of the legislation, but the final version of the Veterinary Act was never enacted.

At least two arguments can be drawn against the inclusion of CAM as veterinary acts, namely corporatism and consumerism. When restricting CAM to veterinary professionals, veterinary regulatory bodies can be accused of corporatism for restricting their use to members of the veterinary profession while failing to demonstrate that public health and animal welfare are protected by having non-veterinarians prevented from practicing such therapies. Moreover, the prevalence of CAM is notably higher in affluent societies, thus suggesting that their inclusion in veterinary care is driven by consumerism rather than necessity (E. Ernst, Cohen, and Stone 2004). This reflects the increasing commodification of veterinary services, especially the pet care industry, fueled by consumer demand for therapies marketed as natural and holistic. Schommer (2012) describes how the futile attempt of the American Veterinary Medical Association (AVMA) to retain control over the use of CAVM led to the inclusion of "animal communication" as a veterinary act, and how AVMA failed to secure *Aesculapian authority* (Rollin 2002) in the process.

1.4 CAVM and professional malpractice

Should CAVM be considered malpractice? And is there a duty for the veterinary profession to protect animals and the public from CAVM? These questions require an ethical reflection,

drawing on examples from both human and veterinary medicine. In human medicine, CAM have been considered harmful for at least three reasons: for causing direct harm to patients (Leon-Sanchez, Cuetter, and Ferrer 2007), for working like a placebo and having no real therapeutic effect (Beedie et al. 2018), and for delaying or replacing the use of more effective conventional therapies (Johnson et al. 2018). Weighing the harm of CAVM is challenging because adverse effects in veterinary practice are underreported (Briyne et al. 2017) and there is no indication whether alternative veterinary therapists are any more likely to be prosecuted than conventional practitioners.

In the UK, the Royal College of Veterinary Surgeons Disciplinary Committee had one case in October 2016 of a veterinary surgeon considered guilty of disgraceful conduct for promoting on his professional website misleading therapeutic claims regarding such therapies as Aerobic Oxigen (e.g. “supports brain and nerve function including memory, headaches, Alzheimer’s, senile dementia, Parkinson’s”), Quinton Marine Plasma (e.g. “excellent for allergies and sinusitis”), Russian Healing Blanket (e.g. “enables the body to correct the overall homeostasis of the organism”), and e-Lybra Bio-Resonance Technology (e.g. “reveals weaknesses in the immune system and strengthens it to increase resistance to disease”). The hearing was adjourned indefinitely after the defendant took measures to amend the information on his website in compliance with professional standards (Woodmansey 2016).

In Portugal, the Order of Veterinary Doctors has convicted three alternative veterinary therapists of disciplinary offenses within the last 6 years (2018-2023): one in 2022 for practicing pranic

healing as an act of veterinary medicine and two in 2018 for publicly defending anti-vaccination policies (and consequently putting at risk public health and bringing the veterinary profession into disrepute). The first defendant was sentenced to pay a fine of three Social Support Index (the equivalent to two minimum wages), whereas regarding the *anti-vax* vets, one was sentenced to pay a fine of one Social Support Index, and the other was reprimanded (Magalhães-Sant'Ana, personal communication). These represent a fraction (2.4%) of the total 127 convicted veterinarians within that time frame. Since the number of veterinarians practicing alternative therapies is unknown, the prevalence of convictions among alternative vets cannot be computed or compared with prevalences in conventional practitioners.

At the heart of the ethical dilemma of CAVM lies a tension between the need to safeguard animal health and welfare and the recognition of the autonomy of pet owners seeking alternative therapies for their animals. Furthermore, the demand for alternative therapies for animals raises questions about informed consent. Should pet owners be free to explore alternative treatments for their animals, even if the scientific community remains skeptical about their efficacy? CAM are often portrayed as being natural, holistic and non-invasive, with none of the side effects of the corresponding conventional therapies, which can convey a message of trust, efficacy and non-maleficence. These assertions do not stem from scientific evidence, thus hindering autonomous choices and precluding genuine informed consent (E. Ernst, Cohen, and Stone 2004).

While the autonomy of the client to choose any therapeutic option for his or her animal should be respected, even if ineffective, several circumstances can deem situations when a veterinarian

might administer, prescribe, or refer CAM unethical (although a non-veterinary practitioner might not be liable in any of these circumstances). The first is when CAM are not clearly differentiated from acts of veterinary medicine and are conferred unfounded credibility by being proposed by a veterinarian, who (as in the misconduct cases described above) is expected by society to provide a suitable standard of care. The second is when clients are not made fully aware of the uncertainty regarding the efficacy of CAM, or when CAM are presented as scientifically proven, in which cases the consent of the client is not informed. Interestingly, it is easy to find veterinary clinics touting the benefits of acupuncture in treating just about everything, including cancer, without regulators condemning this information as being misleading, in the same way as aerobic oxygen or pranic healing. Thirdly, when CAM are unsafe, present more risks than benefits, or will reduce the likelihood of using more effective therapies. That is arguably the case of chiropractic, particularly when associated with anti-scientific claims (McKenzie 2019).

The use of CAM raises an additional concern of malpractice liability when patients are referred to these therapies by a licensed medical or veterinary practitioner (Studdert et al. 1998). Cohen and Eisenberg (2002) explore this concern in the case of human medicine, which is founded on the referral to a therapy that is below standards of care for the medical profession, in terms of efficacy and safety. However, when being applied by a non-medical or non-veterinary practitioner, no reference standards of care exist, which leads to the pressing need to either establish such standards for specific CAM (Raposo 2019) or include them in regulations defining standards of care for conventional therapies. Ideally, to be prescribed by veterinarians, CAM need to be held to the same standards as any other conventional therapy, in terms of evidence of

efficacy and safety, to avoid conferring undue credibility. However, this is arguably unrealistic for most alternative therapies, as a series of systematic reviews have shown (cf. Bergh et al. 2021). Taking acupuncture as a case example, researchers from China Agricultural University have disputed my claims that there is no historical support for animal acupuncture, in an attempt to perpetuate the myth of the antiquity of veterinary acupuncture (Hu and Liu 2020), but no attempt was made to challenge the claims that animal acupuncture is clinically ineffective or that it works as a placebo (Magalhães-Sant'Ana 2020).

In the current paradigm, or in the absence of specific regulations, any veterinarian administering, prescribing, or referring CAVM must exercise absolute transparency to clients. As veterinarians, we have a professional obligation to refrain from portraying CAVM as veterinary acts, or as proven and effective therapies unless reasonable scientific evidence is available. Erroneously portraying CAVM as scientifically proven or effective is unethical, violates informed consent, and should be considered malpractice.

1.5 Recommendations

The field of complementary and alternative veterinary medicines (CAVM) is rife with legal and ethical issues. At the heart of these issues lies a tension between the need to safeguard animal welfare and the recognition of the autonomy of pet owners seeking alternative therapies for their animals. Stricter regulations may limit the availability of future therapies, denying animals access to practices that may have a therapeutic effect, whereas a more lenient regulatory approach may expose animals and their owners to unscrupulous practitioners. Veterinarians are

both ethically and legally bound by society by rules of professional conduct to provide the best possible standard of care, considering current scientific knowledge. While individual veterinarians cannot be prevented from prescribing, applying, or referring CAVM, they are required to exercise transparency regarding the scientific evidence of efficacy of CAVM, their risks and side effects, and refrain from referring to these therapies as acts of veterinary medicine. A regulatory framework is needed that acknowledges the heterogenicity of alternative therapies, respects the autonomy of owners, and fulfills the duty to protect the welfare of animals under veterinary care.

Disclosure statement

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Abstract

The field of complementary and alternative veterinary medicines (CAVM) is rife with legal and ethical issues. At the heart of these issues lies a tension between the need to safeguard animal welfare and the recognition of the autonomy of pet owners seeking alternative therapies for their animals. Stricter regulations may limit the availability of certain therapies, denying animals access to practices that may have a therapeutic effect, whereas a more lenient regulatory approach may expose animals and their owners to unscrupulous practitioners. Veterinarians are both ethically and legally bound with society by rules of professional conduct to provide the best possible standard of care, considering current scientific knowledge. While individual veterinarians cannot be prevented from prescribing, applying or referring CAVM, they are required to exercise transparency regarding the scientific evidence of efficacy of CAVM, their risks and side effects, and refrain from referring to these therapies as acts of veterinary medicine. A regulatory framework is needed that acknowledges the heterogenicity of alternative therapies, respects the autonomy of owners, and fulfills the duty to protect the welfare of animals under veterinary care.