Communicable disease—the veterinarian’s duty to report, to confine, to disclose

State laws generally impose a duty on various persons to report communicable and contagious animal diseases to animal health authorities. These authorities may be the state veterinarian, a livestock disease commission, or a federal veterinarian. In some states, there is a duty to report to local authorities such as the county sheriff, the town marshall, or a local health authority (i.e., Arkansas, New Mexico, and Indiana).

The persons on whom the duty falls varies from state to state; however, the owner or one in possession of the animal is almost always included. Though details in state statutes vary, a special duty is imposed on veterinarians. A minimum requirement is that veterinarians having information of the existence of a contagious disease report it to the animal disease authorities in the state department of agriculture. Some state laws or regulations specify the diseases that must be reported. Such laws or regulations would obviously have to be amended from time to time. Although prompt reporting is implied, some states set a specific limit (Oklahoma, Nebraska, Montana, and some other states say “immediately,” and Indiana law provides that it must be reported to

Federal law requires that veterinarians accredited by the USDA/APHIS report “immediately” any of the diseases listed in federal regulations to the state animal health official or the veterinarian in charge. Some state animal health officials provide a form for reporting, either by letter or on a postcard. A survey I conducted many years ago indicated that compliance with the reporting law by veterinarians varies markedly from state to state, some achieving almost 100% compliance, others less than 50%. The situation may have changed since that survey was done.

As one would expect, there are penalties if a veterinarian fails to report as prescribed. A federally accredited veterinarian may lose that accreditation and be fined. Under state law, a veterinarian’s license may be revoked or suspended, and there may also be fines or even criminal penalties.

What is a veterinarian’s position if a client should claim damages because the veterinarian reported a communicable disease in the client’s animals? Though most state laws may provide that there is immunity when the veterinarian simply does what is required by law, there may, nevertheless, be questions about the accuracy of the veterinarian’s diagnosis. Assuming, however, that the veterinarian’s report is accurate, a strong case for immunity can be made even if there is not a statute or regulation providing for such.

Does the veterinarian ever have a duty to disclose an animal disease to persons other than federal or state animal disease authorities? Under certain circumstances, it can be argued that such a duty exists. Suppose that the veterinarian knows that a client is planning to sell an animal with a communicable disease to another of the veterinarian’s clients. It is my opinion that, in this case, disclosure to the prospective purchaser would be proper—in fact, failure to do so might lead to a successful damage claim by the purchaser against the veterinarian. On the other hand, if the veterinarian does not know to whom a client might be planning to sell an animal with a communicable disease or if such a person is not a client, the veterinarian’s duty would perhaps end by warning the seller against the consequences of making such a sale. Questions about the veterinarian’s performance should not arise if a certificate of inspection is required, the animal is properly examined, and the presence of the disease is reported on the certificate. Furthermore, with some communicable diseases, it would be a violation of law for the seller to move the animal from his premises or to any destination other
than for slaughter. Nevertheless, there may be circumstances under which this problem would present itself to a veterinarian.

Under state rabies laws, veterinarians may be required to provide for the confinement of animals that have bitten someone so they can be observed for a period specified in the law (i.e., 10 days). Failure to abide by this law may mean that the veterinarian cannot make a final report regarding a rabies case. Besides penalties that may be imposed, it could lead to a civil action. In an Illinois appellate court case, a family recovered damages from a veterinarian who permitted a cat that had bitten a child and then died on the veterinarian’s premises, to be taken to the city dump without examination for rabies.

There have been cases, infrequent fortunately, in which a veterinarian falsifies tests. If this is discovered, it leaves the veterinarian vulnerable to revocation of license, prosecution by state and federal authorities, and civil action by anyone who can claim injury because of the falsified tests.

In a New York Supreme Court Appellate Division case (366 NY Supp. 2d 681), the court found that a livestock dealer had “attempted to defeat the intent of said section (on brucellosis testing) by aiding, abetting, and soliciting the undertaking and implementation of false and improperly conducted blood samplings by a veterinarian on your premises for the purpose of testing for bovine brucellosis.” The court rejected the testimony of the veterinarian who allegedly performed the fraudulent tests. Though this was an action to revoke the permit of the livestock dealer and does not disclose what, if anything, followed regarding the veterinarian, the veterinarian certainly was left open to license revocation and penalties under federal and state law.

Another problem with which a veterinarian may be confronted is what to do when a client owns a rental stable in which there is equine infectious anemia. Perhaps the answer is the same as that given for the sale of an infected animal—namely, that if the veterinarian has other clients who plan to board their horses in an infected stable, the veterinarian has a duty to warn them. With respect to nonclients, the veterinarian’s duty probably would end with a strong warning to the operator of the stable that failure to disclose this to prospective horse owners could lead to civil liability, as well as any statutory penalties that might be provided.

In conclusion, these things can be said about the veterinarian’s role regarding the reporting and disclosure of communicable diseases. The veterinarian should know what federal and state laws require, should make thorough examinations so that the reporting will be correct, should report the disease as required by law, should inform the owner about restrictions that may exist because of the presence of the communicable disease, and should use good judgment about those who should be warned of the presence of the disease in a particular herd or at a particular place.