

produce an autogenous bacterin. If you go to a licensed producer of veterinary biologics who is experienced in producing bacterins for sale in livestock populations and ask him to produce an autogenous bacterin for you, the chances are he will say "I don't want to." Why is that? It might be that the producer is in another state; it might be that the bacterin would have to come back across the stateline thus possibly entering into interstate commerce. Because they are licensed producers of veterinary biologics they would have to fulfill certain criteria of safety and sterility checking of that product in order to get it back to you. They would probably need to interrupt a full production schedule for the other licensed commercially available products that they are producing in order to fulfill your request. So it is becoming a very difficult problem to find the producer of veterinary biologics that will respond to your request at short notice for a bacterin. Suppose you go to a local laboratory within your state, a diagnostic facility, a private laboratory, or a private diagnostic laboratory. There are some inherent problems here and I have seen some abuses of these types of situations where a laboratory is eager and willing to meet your request for the production of autogenous bacterins. In some cases it becomes a business of the laboratory to produce and sell autogenous bacterins rather than to really help you with the diagnosis. You have that case of calf scours and you send some intestinal contents to the laboratory and they isolate *E. coli* and they are in the business of producing autogenous bacterins. They will probably sell you one whether you need it or not. So be careful of that type of assistance regarding autogenous bacterins. There are some bacterins that are produced within several of the states, supposedly for sale only in the state in which they are produced and not to enter into interstate commerce which can be done without fulfilling all of the requirements of a federally licensed product. This is perfectly legal.

Until recently there was very little if any effort to look at the quality of these products and decide if they are good, bad, or indifferent. If you are looking at a bacterin, if it is produced properly, chances are it is not dangerous, and will not induce a disease process, and is not going to cause you any harm. You are very safe in that respect. It is very difficult to ascertain if it is going to do you any good. But there are good, reputable local laboratories and local producers of bacterins within states and there are those that might not be so good but since there are not test requirements or there is very little testing done it is very difficult, if not impossible, to tell which is which. There are some local products that achieve the impossible; there are some products that are produced for sale within a state, for example, that are not licensed or are not tested that can achieve wonderful things, like putting eight antigens or more into a 2cc dose. Now the best commercial antigens that are tested and that do pass inspection have five-way clostridial antigens or five-way leptospiral antigens in maybe a 5cc dose. I think that there are a lot of producers of licensed biologics that would like to know the secret of this one producer that can get 8 antigens in 2cc

doses.

All negative comments up to this point are words of caution and I think that once those precautions are met and once you have diagnosed the disease as a bacterial infection, once you have exhausted management changes, nutrition changes, environmental recommendations, and rule out other infectious agents and rule out antibiotic therapy as a means of control, and have not achieved success, then consider autogenous bacterins.

Malpractice

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I want to thank you for the opportunity to be here this evening as a representative of the AVMA Professional Liability Insurance Trust. I have to say that it is the desire of the Trust to present information to various specialty groups and to point out claims that are both repetitious and costly. I am happy to see that Dr. Woelffer is in the audience. Elmer just recently left his duties with the Trust and he was chairman for many years and I know in speaking with him that some of the subjects we are going to talk about this evening if you care to proceed later on a more detailed basis, that Elmer can fill you in on some of the details that we certainly won't have time to clarify this evening. To pursue the subject that was just mentioned about the attorneys, we have a chap who does some defense work for us, his name is Mike Kochea who is a very outspoken chap and he is a tremendous speaker. We have had him on several national AVMA programs and the point that he makes, and I would just add to this, about the physician in which he says that there was a time when the physician floated down hospital corridors on gossamer wings, meaning of course, they felt that no one could touch their little empire and that no one could establish a problem for them related to malpractice. I would like to say to you that these days have changed and all professionals, regardless of their involvement, are now susceptible to malpractice claims. The physician, of course, within the last few years, has been as hard hit as any. I think we are tarred with the same brush, and as Kochea has said, the problems that the medical profession has been faced with have related themselves also to the veterinary medical profession. It is just a matter of degree and a matter of the involvement of the attorneys which you have said are now in great numbers as to how much. Sometimes the problems are multiplied. There is also a statement that goes "to consult an attorney about small matters is like watering plants, it only makes them grow." So I think you have to bear that in mind too if you are going to get involved with an attorney. One has to be careful as to the extent that situation might carry you. I have to say that this is true in our malpractice situation as much as it might be in some other type of situations. So in

the time available to me I would just like to briefly cover just a couple of areas and a couple of examples to go with them. This will give you an idea of just where things are headed at this moment and what some of the problems are related to the Liability Insurance Trust.

First of all, we seem to have had a resurgence of the problem of health certification of cattle related to purchase or to shipment and this has been a problem somewhat in the past and I have to say now that we are in some recurrence of it. Of course, this is certification of cattle as to first of all their general health, and more specifically as to their freedom from communicable disease as a serious and binding legal commitment. Errors in identification, testing, and the reporting of results can be very complicated. This of course is complicated by the cost of shipping, possible quarantine if these animals have to be so quarantined and slaughter or disposal if that is an end result. The problems that result from all these errors are certainly somethings that we have to face up to today. Obviously these animals that have been purchased for other reasons are not usable at this point and it is a very simple matter for attorneys to be able to develop and of course recover large sums of money for losses which are very real to those who have been involved in the purchase of these animals. The word of course is that the binding legal nature of health certification requires that the utmost care and attention to prevent errors need to be called to everyone's attention. The problem with these errors is that they have to do with malpractice and the eventual problem of a malpractice law suit.

I would just like to give a couple of examples and we have a number of them in the system and in particular this one involving some 420 animals. It involved a law suit to recover damages for improper brucellosis testing. This procedure eventually wound up in court. First of all we had a \$20,000 demand. We were able to get this cleared through court with the eventual legal costs and the acquittal of the veterinarian, but the legal costs in this particular incidence was some \$3,400. Another instance had to do with a testing procedure in which there were 30 animals involved. This was a group of cross-bred animals of varying age. There was an error in testing and there was an error in the certification of these animals and the recording of the test results. We had a very difficult case to defend and at this time there was a very substantial demand made. There was a final settlement reached in the neighborhood of \$5,000 and I would have to tell you that the legal costs in this incidence were over \$6,000. So you can see the importance attached to claims of this nature not only in the cost of the defense but in the necessity of having to use sufficient legal aid to defend. In this incidence, there was a payment made on the claim but there were some very large legal costs involved in the whole process.

The second example has to do with the claims related to pregnancy examination and the resulting errors that can be made are often compounded by the fact that these examinations are made under some very adverse conditions

such as with sales or auction market examinations where there is a very hurried situation, hurried examinations, inadequate records, and certain problems that enter into the picture just based on the activity. It is not difficult for owners to establish a claim. It also puts us in a position of very difficult defense. As with another problem with pregnancy examinations, not only just in establishing the state of pregnancy, but as in the equine, we are also now seeing claims related to fatal tears in the rectal wall. These do occur and even though a veterinarian may not be at fault, and we have taken this position in many of these claims, there has to be a defense situation put together because of the accusations made for an alleged situation of malpractice. I guess I would have to add the one word which is the most disturbing of anything that occurs in a malpractice is that you do not have to be guilty to be accused and once an alleged situation takes place, as I explain in talking with students, that there is no way out of this alleged malpractice until you are released either by dismissal or by court action or by the payment of a claim, the problem being that there is just no way to settle one of these situations once you have been accused unless you go the full route. Of course, that is what the insurance program is for, in providing this kind of information and defense cost and of course eventually payment if that is what is going to be necessary. We have had several of these claims related to pregnancy examinations and in particular, I would relate to one that had to do with some 26 animals in which there was extensive legal involvement to dismiss a veterinarian from a claim based on wrongful pregnancy examinations. We did succeed in having this dismissed, without claim payment and I would point out again that we had some \$1,800 legal costs involved in defending this particular claim.

Finally, a third situation which is on a recurring basis and has something to do with pharmacology. There are many experts in this field, more so than I am, but I can only relate to you what we are seeing in these claims and this is in particular related to Rompun. This is not a cleared situation as far as the Bureau of Veterinary Medicine is concerned, but it is one that is very extensively used. These losses seem to occur principally in animals that have not been properly observed after the medication has been used. At times I have seen reports where I am sure the dosage has not been properly administered or repeated dosages possibly were administered, but in particular we are talking about observation of an animal and possibility of an accusation of negligence as far as the veterinarian is concerned. Most of our claims are related to animals that have value. I am speaking here of pure bred bulls. They seem to be the ones that are mostly reported and of course this is a situation which places us in a payment if there can be negligence shown so far as the veterinarian is concerned. In particular I think one needs to be aware of failure to advise an owner, the failure to instruct as to after care. My first statement is advising the owner as to the consequences of the use of the medication, secondly, failure to instruct as to the after-care

and all of these in essence can lead to an accusation of not having provided the best service so far as you as a veterinarian are required to do. The one particular incidence that I have on hand here had to do with a pure bred bull that subsequently died of pneumonia. Choking symptoms occurred following the use of Rompun. There was a very extensive legal work involved again in this case and we were not able to succeed in having an acquittal brought down and there was a payment made, some \$2,000 for the animal and we had about \$2,400 involved in legal fees.

You can see, involved in these cases we not only have had some claim payments, we have had some acquittals, but I would also say that you can see that we have had some legal fees involved in defending these cases. This is essentially a brief overview of what we have been faced with over the years that we have been looking at the claims in the Trust but I would also think that these are at least three examples that you should be aware of the consequences and of the particular problems that are facing the veterinarian today.

Drug Inventory Control
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Is there anyone here that has an inventory control monitoring system of some kind in their practice? Two? Tell me something. What do you tell the client that tells you "I don't need to write that down, I can keep it in my head, I remember every bit of it." Keeping track of inventory can make one or many differences in your practice. It is your choice. I am going to start with some of the small advantages that we have found starting with an inventory system brought to our office. (1) We had to organize our shelves, we labeled them, we found that it avoided waste. We found that by keeping all of one drug in one place, the only exception being those that we buy in cartons, and in dozens, but the partial bottles that come out of the truck, where the veterinarian has to have more than half of a bottle he will use large amounts at a time, we end up with partial bottles on the shelves. If we have one place to put these bottles so that they do not get lost or allowed to get too old to use, they can be put together and kept an eye on. It keeps all our medication in one place. We found also when we labeled our shelves that when new employees came in they had a much easier time in learning the drugs. They were all in one place. At the same time that we labeled them I tried alphabetical order but I did not like that so I placed the drugs on the shelf by the form that they came in. There were topical sprays, topical ointments, bandages, pills, powders, fluids and injectables. It forces us to mark each individual unit that came in. We knew each drug's complete history from the time it came in until the time it was used. This in turn facilitated the rotation of our stock. It helped us to keep an eye on those things that



were a little older and needed to be used first. We have two mobile units in our practice. That gives me three hospitals to take care of! I rotate not only by date but by condition of the product in the truck. I find that the labels get rubbed off and boxes get a little dog eared. I take those out and try to dispense those in the clinic as I can, trying to keep those all looking good. We do not label every unit of vaccine that comes in - that is the exception. Those all go into the refrigerator. They are labeled only on the card in the file and our vaccines are all stored with the expiration date up. It pays to keep a constant watch on your expiration dates nowadays because the companies have gotten pretty tight on taking anything that has gone out of date. We use a blackboard for a want list. When we get down to the point where something needs to be ordered and someone has taken the last one off the shelf or the one that indicates that we need to order that product, they write it on the board. When I have some things on the board that I am ready to order, I sit down with my file in front of me and that makes me ready to deal by telephone. This drove my suppliers crazy when I first got this thing going because they could not believe that I had all those prices in front of me and I find a lot of people a lot more willing to deal with me than they were when I was not really sure what I remembered from the last time I ordered a product. I found also that I was able to amortize in my own mind - we have some products, and I am sure you do too, that you prefer - alternative products that are similar, cost less money, and you think you might like to use them but you just won't settle for anything less than this product that is top of the line. I find that it is not so bad to overspend a little in that one area when I can prove by my cards that I can keep costs cut to the bone in other areas, possibly with generic drugs. I figure that every dollar that I overspend for my employer is delaying my next raise, if I ever get one!

Finally I hate to see the end of the year. That year end inventory kills me every time. I found that when I got my inventory system working I had everything, all my drugs in alphabetical order, it was much easier to type them down the line and then go to the shelves and write down how many of each I had, rather than going to the shelves and writing them