

Liability Insurance

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I would certainly like, first of all, to express appreciation for being here with you this afternoon. Dr. Woeffler, Chairman of the Trust, and members of the AVMA Professional Liability and Insurance Trust certainly send their greetings and best wishes for a successful meeting.

I would like to present a status report on the basis of what the Trust is doing and its activities. The big problem is that most of us in practice and around the country don't realize what is happening on a day-to-day basis with the programs, such as the Professional Liability Insurance Trust, and it is not easy to tell it in a short time. Maybe some time later on, it might be possible to give you an in-depth report on how this Trust functions and what it does for the veterinarian, related to his professional activity throughout the country.

We now have about 8,000 veterinarians in this program. It takes large numbers of people to run good programs; we are able to accumulate information. We are accumulating data which we are going to have on a computer retrieval situation during the next few months with the hope of relating what exactly happened to the problems of malpractice and the veterinarian in all phases throughout the country, regardless of practice or phase of veterinary medicine involved. So, again, we are very interested in numbers. We are interested in numbers from a statistical standpoint, and the accumulation of information which can be related to the veterinarian and the veterinary profession, so that these problems can be alleviated by education and by solving our problems. Maybe we just have not been able to pay as much attention to this in the past.

So, with this large number of veterinarians, and we are hoping that they will increase, we are able to work with and translate information to the benefit of the profession.

Sixteen percent of the claims that come in are related to cattle practice. There are some related to regulatory activities which have to do with the examination and health certification of cattle, and testing and so forth. We have some problems in these areas, and most of them have to do with, of course, mistakes that are made in recording

vaccination activities or recording numbers. I am sorry to say that the veterinarian is responsible when there is a mistake made and even though in all good faith he has done the best that he can in times of regulatory activity work, where mistakes are made in certification of animals, the veterinarian is held responsible. So bear in mind that it is a matter of having a pencil in the right place and having somebody reading a right number. Of course, you are responsible if an error occurs and it can be shown that you were the one who was responsible.

We have had some increase in claims in this last year or so, but in general we have been in a rather static situation for the last 18 months. The claims that have been paid (the difference between a claim filed and a claim paid is a totally different set of numbers) have doubled. Again, we are dealing with purebred animals, registered animals, animals of value. If something happens that the veterinarian can be held responsible for and the owner is out to make recovery, the animal is worth a lot of money, and actually if there has been malpractice involved, then, of course, these dollars are going to be paid out and increase. That is what has happened in the last couple of years.

I can only say at this time that the best thing that you can realize is that the claim being filed does not necessarily mean it is going to be paid. First of all, there is a very active defense taken and it takes place through the Trust activities, through the insurance company. The second point to this business of having a claim filed is that you have to have a defense, and the defense that you provide, if you don't have insurance coverage, comes out of your own pocket. There is no one here that does not realize that any activities related to the legal profession are probably going to be a lot more than the call that created your problem to begin with! So, in the instance of having good claims investigation, good activities on the part of the insurance company with their legal department, this is where these claims are really settled in the best interest of the veterinarian. The best part of the program can be carried on from that point because we are not interested in paying claims that are not valid. We are there to protect the veterinarian in all phases. If he is at fault, he will be fully protected; if he is not proved at fault, then his defense, of course, is going to be paid for by the insurance company, and this is the name of the game in all phases. The part that we all have to remember is that the defense many, many times costs much greater than any part of the claim may be from start to finish.

I think we should spend a couple of minutes on what actually happens. Unfortunately, the type of practice that you men are involved with every day has to do with restraint procedures, roping accidents, etc., and even though I do not have exact percentages with me, the majority of our claims filed are related to accidental happenings. It is an area that cannot be completely controlled. We can only be as careful as possible. A knowledge of handling is a very important part. The actual area of malpractice is a relatively small percent. We have had some claims on vasectomies in "spotter" bulls, and I can only caution you

again that the technique needs to be as meticulous as possible. The work of Dr. Amstutz provides a variation that has been published in the AVMA Journal and certainly gives an ultimate of protection where this type of surgery is involved, if you are going to perform it routinely. We hear, of course, only about the bad ones and we have had a couple of real bad ones in the last year or so! We all have to be most concerned with the way it is conducted, the accuracy and the identification of structures, because once these claims come to us, related to loss of production, misbred calves, etc., and down the line, they get to be rather sizeable. Some have been very substantial. So, this is an area where we are very concerned. It was nice that electricity was invented, but it also has caused a series of problems. I can think of a couple that had to do with the electric dehorners that “shorted out,” and now we have the ejaculator claims show up, with shorting of that particular piece of equipment.

I have to tell about another one which I am glad has not been repeated and it has to do with the chain fall hoist. Apparently there was a very decided need for this piece of equipment one afternoon. A very convenient beam was located above the animal and the chain hoist fastened to a log chain over the top of the beam. They forgot that there was a 220-volt line up on it and when they tightened the chain, it cut down on the insulation on the 220-volt line. So, it might be a good idea to check for electrical lines before you throw something up over a beam!

I am going to finish with two things here. One is the mislabeling of drugs. This has to do with misreading original labels and writing the wrong instructions. We have had a very sizeable claim on arsenical medication in calves where the dosage was completely miscalculated. A large number of animals succumbed and, of course, we paid the claim. True again in some other products—in worming compounds where dosages have been miscalculated.

An article in one of the Washington papers stated that a quarter teaspoon of a concentrate of an organic phosphate compound would kill a human adult. So, anytime that you dispense concentrates where children are going to be involved, be careful. We lost a child; we had another one quite ill that has recovered, and we had one not long ago where a woman gave her child a dilute mixture in lieu of cough syrup at 5 o'clock in the morning. Fortunately it was a diluted mixture and she was able to identify it and get the child to the hospital. So, even though we are not so much involved in this direction in cattle practice, you men do other types of work just the same as I do, and just bear in mind that any time you hand out medications that contain these compounds, you better think twice — first of all about handing them out, and, secondly, the way they are labeled, because they are lethal. Certainly none of us want this on our conscience or to be involved in a claim that would be related to a human being.

Further activities in the human field have to do with injuries. Here again, you are back to the same nature of the type of business that you

conduct, where accidents will happen, and two people are helping you. I am sorry to say that if it is a situation where you are doing a professional procedure and a person is injured, it is possible that you will be held responsible for this person's injury. As you know, the medical care, hospitalization, and treatment of a severe injury is going to be a very, very serious situation. We caution you in these instances to use all judgment and care possible to prevent any such happening.

I think that our greatest contribution over the next few years is going to be this business of computer data retrieval of all the claims back to 1962; evaluation of the causes and the drugs involved; and, of course, the current status of the new claims coming in so that we can have them available for transmittal to the profession in the hopes of reducing claims and helping the veterinarian do a better job. The next point I think you cannot deny is that this is a membership service of the American Veterinary Medical Association. I think we can be very proud of our national organization.