

# When Rescues Fail: Legal Considerations for Veterinary Involvement

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Veterinarians must consider ethical and legal implications for providing services when equine rescue organizations collapse. A decision to participate should include review of state regulations that define cruelty, neglect, and abuse, as well as the veterinarian's roles to report, support law enforcement, investigate, and triage medical treatment. Author's address: Minnesota Board of Veterinary Medicine, 2829 University Avenue, SE Suite 401, Minneapolis, MN 55414; e-mail: julia.wilson@state.mn.us. © 2016 AAEP.

## 1. Introduction

Equine veterinarians may become involved in failure of an equine rescue as the rescue's veterinarian, a community veterinarian, or when notified that a large group of horses need immediate assistance. Collapse of a large equine sanctuary, retirement farm, or failed horse farm may be very similar. Based on the veterinarian's oath, there is an ethical responsibility to provide professional expertise to improve the animals' welfare. There are also legal responsibilities to consider. The scope of a veterinarian's role will depend on the circumstances, the number of veterinarians that can be mobilized to triage and treat the animals, and realistically, assessment of the time commitment and lost revenue. Communities and clients expect veterinarians to lead efforts to address both the immediate needs of the animals and any other health abnormalities. With experience and training, veterinarians can meet that expectation and greatly affect the outcome for the horses. Very few clients are likely to protest if a veterinarian reports a rescue that has mistreated the animals, even if the rescue is that veterinarian's client.

## 2. Methods

Veterinarians may take on a role in resolution of failure of an equine rescue at several stages. First, the rescue may be the veterinarian's client, but educational efforts to improve the horses' welfare failed. The veterinarian may be familiar with the farm or suspect trouble on the basis of animals that are brought into the equine clinic. Similarly, a veterinary client or concerned volunteer may insist that the veterinarian intervene based on what that person has observed or heard. The first notice of trouble may be a call from a humane agent, animal control officer, or law enforcement who may ask the veterinarian to look at the animals and provide a professional opinion. After a decision has been made that the animals must be seized or surrendered, a veterinarian may become involved in triaging the multiple medical issues that are often present as well as documenting the condition of the animals. All entry points need the veterinarian to be a strong advocate for the horses' welfare. There are legal ramifications that must be reviewed given that findings at any

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## NOTES

## Abuse Reporting Requirements by State

In recent years, several states have focused their attention on animal abuse, neglect, and cruelty reporting by veterinarians, health care providers, and other social service providers. The clickable map below shows state laws and regulations that AVMA is aware of which require or encourage veterinarians and veterinary technicians to report animal abuse and cruelty. The map also includes states that provide civil or criminal immunity for good faith reporting of animal abuse. Keep in mind that veterinary professionals may report suspected abuse to authorities even in the absence of such a legal requirement.

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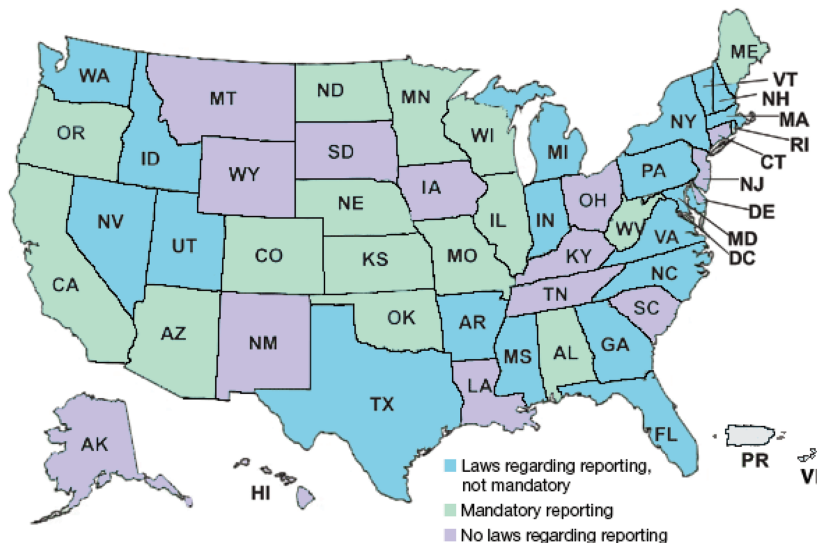


Fig. 1. American Veterinary Medical Association's Advocacy web site, a tool to quickly look up animal cruelty regulations in each state.

entry point stage may quickly evolve into a criminal investigation.

What is the definition of animal cruelty in the state? Failure to provide adequate feed, water, and shelter as well as basic health care are unfortunately common in cases of rescue failures. These failures may be defined as acts of omission that justify legal intervention. Many states include neglect under the definition of animal cruelty.<sup>1</sup> Analysis of the situation may also suggest that the responsible person fits the definition of hoarding, which is often linked to mental illness.<sup>2</sup>

When a veterinarian becomes aware that animal welfare has been compromised at an equine rescue or client's farm, the first step is to review reporting requirements for the state. Veterinary technicians are affected by legal requirements in many states as well. The American Veterinary Medical Association provides an excellent resource that is frequently updated and easily accessible (Fig. 1).<sup>a</sup>

This web site provides five key pieces of information for each state: 1) who must or should report suspected cruelty; 2) whether reporting is mandatory, voluntary, or not required; 3) what are reportable offenses; 4) civil immunity, if any, for good faith reporting; and 5) to whom suspected cruelty should be reported. The site also provides links to the

specific state statutes or rules for additional detail. Among the details, the veterinarian should find and review the state's definition of cruelty, and any law that pertains to a veterinarian's role in investigation and documentation of cruelty. Increasingly, states are enacting legislation that recognizes that animal cruelty and neglect are linked to abuse and cruelty to people and mental health. Law enforcement should be aware of this link and anticipate the potential need for a two-pronged investigation. Legislative updates on bills under consideration or new laws about animal abuse are provided monthly by the National LINK Coalition via the free e-newsletter, The LINK-Letter ([www.nationallinkcoalition.org](http://www.nationallinkcoalition.org)).

In reporting suspected cruelty, regulations on the confidentiality of medical records should be considered based on the wording in the state's veterinary practice act. Relinquishing records to law enforcement or humane agents may be allowed or require either owner permission or a subpoena from law enforcement. State practice acts can be retrieved quickly on the American Association of Veterinary State Board's Web site ([www.aavsb.org](http://www.aavsb.org)) by selecting the "Board and Agency Directory" option. After choosing the state or province, the site provides the link to the practice act and rules. Once the PDF is opened, a simple shortcut to find the pertinent lan-

guage is to use the key combination “Control + F” function, then type in the phrase, “medical record.” This then highlights all mention of these words in the document. Alternatively, the board’s staff may be able to answer the questions. Confidentiality constraints on medical records, investigative data, or ongoing legal processes may also apply to media interviews about the rescue collapse.

A phone call to law enforcement, humane agent, or animal control officer to report neglect and/or cruelty can be followed up with a signed affidavit to law enforcement. This should be a statement of the medical history and facts, signed by the veterinarian and witnessed by a notary. The affidavit should request action. If there is no action, the affidavit can be taken up the chain of command.

When a veterinarian is asked to accompany law enforcement, humane agents, or animal control officers to go onto a farm for a possible cruelty investigation, legal preparation is required. In most states, a search warrant is needed first. The veterinarian might otherwise be trespassing, and unable to look at the animals. The link between animal hoarding, mental illness, and at times human abuse is another reason to make a joint visit with law enforcement.<sup>2,3</sup> In addition, observations made without a search warrant may not be admissible in criminal cases.

Criminal investigation of the rescue’s managers or owners may be necessary and is best accomplished with input from both law enforcement and a veterinarian with forensic training. Accuracy and completeness of a veterinarian’s report is critical for successful prosecution.<sup>1</sup> Depending on the state’s laws, neglect, abuse, or intentional cruelty to horses may be a misdemeanor or felony offense. Maximum sentences for a person convicted of animal cruelty are also highly variable, and may depend on factors such as demonstrable intent, permanent harm, mortality, and previous animal cruelty charges against the individual. Unfortunately, some states have no animal cruelty laws whatsoever or jurisdictions may choose to not enforce the laws.

Veterinarians that are recruited to triage and treat surrendered or seized horses must be aware of the definitions of cruelty, neglect, and abuse for that state as well. Language chosen in medical reports should reflect the language in those definitions. The presence of infectious diseases such as strangles may be reportable to the state veterinarian as well as affect whether the animals should be sheltered in place, not moved to a state or county fairgrounds, or kept in isolation facilities at a veterinary clinic.

Licensing requirements must be heeded if the veterinarian will be working temporarily on the scene. Some states may allow a veterinarian licensed in another state to work as a consultant under the supervision of a veterinarian licensed in that state. Alternatively, the state practice act may make exceptions for emergency situations. These legal provisions should be ascertained before beginning work

with the surrendered or seized animals. The state’s law may also define who seized animals belong to. This may be important for obtaining consent for treatment.

Requirements for medical records should be kept in mind when evaluating the animals. State practice acts and rules may be quite detailed about what should be included. In a forensic investigation, even more detail and photographs are critical for successful prosecution. Adequate support staff to meet these needs should be planned in advance if possible. Equine specific evaluation forms are available from the American Society for the Prevention of Cruelty to Animals veterinary investigation team. Original records from triaged horses may need to legally remain with the veterinarian, in which case copies can be provided to law enforcement for cruelty prosecution if necessary.

Authority to euthanize animals may be specified in state regulations. Specific criteria may need to be met for euthanasia and should be documented in the record for the animal. If multiple horses need to be euthanized, regulations pertaining to carcass disposal must also be considered and may influence the choice of method for euthanasia. If a forensic necropsy is needed, taking the remains to a diagnostic laboratory is ideal, but removal of “evidence” may also be under legal constraints and require written permission of law enforcement.

Responsibility for the cost of veterinary evaluation and treatment of the horses may be found in state regulations. Local or county government funds, however, may not be sufficient for veterinary expenses or upkeep of the seized animals. This is important to understand and reinforce with local officials. In counterpoint, this need to be paid for professional expertise in an economically challenged area may discourage a request for veterinary services. The cost of housing seized horses may also fall on the municipality and further discourage taking action such as removing the horses. Nonprofit organizations may be able to contribute funds, volunteers, feed, transportation, and facilities. Motivated clients may be willing to use social media to help raise funds as well.

A quick check with the veterinarian’s liability insurance provider before beginning the work may be prudent to determine coverage and ask whether a liability waiver for non-employees is needed. The likelihood of injury escalates if there are stallions and other horses that cannot be handled.

Relocation of large numbers of horses into foster care or other rescues may be challenging and require a coordinated effort between multiple responding organizations. Veterinarians should be familiar with requirements for health certificates for interstate travel if such will be required. Some form of medical record sharing with new caretakers should be pursued, even if it is not the full forensic file.

The final legal piece for consideration is the veterinarian's role in prosecution. The district attorney's advice should be followed in both preparation of reports and court testimony. Cases of equine cruelty that were successfully prosecuted are available through animal welfare organizations. These can guide those who are not familiar with strategies for successful prosecution.<sup>4</sup>

### 3. Discussion and Conclusions

A veterinarian can more effectively assist a large number of horses surrendered by or seized from a failed rescue by becoming familiar with the legal details for that state. A group of informed veterinarians in a state can more rapidly form a cohesive team. Preplanning for such an emergency at the level of a state veterinary association or animal health agency can include a manual with a summary of these parameters as well as protocols.<sup>5</sup> An incident command system can be established or encompassed by the state's disaster or emergency veterinary medical assistance team. However, legal role definitions must be incorporated in the organization of the team and decision making. This framework could also include a designated media spokesperson that is familiar with the legal constraints on confidential information.<sup>2</sup>

Local equine veterinarians are critical to resolution of the failed rescue's equine welfare crisis. These practitioners are most likely to know the law enforcement officers, sites for temporary housing, and potential volunteers to assist with the task, if volunteers are needed or allowed. This veterinarian's input is critical even if the local practitioner cannot dedicate a large amount of time to the effort. This veterinarian is likely to be the first person to realize that the number of horses exceeds local capacity for veterinary care and housing. Calls to veterinarians and organizations with training in large-scale equine humane seizures should be made early in the process. Invaluable advice and additional resources may be available.

Positive working relationships with law enforcement and humane officers are very important and require nurturing.<sup>6</sup> Law enforcement may have little knowledge of horse husbandry and fail to recog-

nize underfeeding, signs of disease, and abnormal behavior. The veterinarian must then also take on the role of educating law enforcement on standards of care to persuade law enforcement leadership to take action.

Support from organizations and veterinarians with strong backgrounds in humane investigations should be sought as early as possible. Veterinary forensics is a rapidly evolving field with significant overlay with human crime investigation. Animal cruelty, abuse, and neglect are linked to human cruelty, abuse, and neglect. Mental health professionals can be a valuable addition to the intervention team.

### Acknowledgments

#### *Declaration of Ethics*

The Author has adhered to the Principles of the Veterinary Medical Ethics of the AVMA.

#### *Conflict of Interest*

The Author declares no conflicts of interest.

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<sup>a</sup><https://www.avma.org/KB/Resources/Reference/AnimalWelfare/Pages/Abuse-Reporting-requirements-by-State.aspx>