

## **A General Overview of New York State Law Governing Lost and Abandoned Animals and Frequently Asked Questions for the Veterinarian**

### **A. ABANDONED ANIMALS**

#### **What options does a veterinarian have when an animal is left in their care and not picked up by the owner?**

The veterinarian may take steps to declare the animal abandoned or if there is an outstanding bill for services owed, the veterinarian may take steps to exercise a lien on the animal and eventually sell it.

#### **When is an animal considered abandoned?**

An animal is considered abandoned when left in the care of a veterinarian or a veterinary hospital (or with other persons for treatment, board or care) and the following conditions are met (1) :

(1) The animal was left in the care of the veterinarian for a specified period of time and not removed within the specified time period AND the animal is not removed within ten (10) days of written notice of removal is provided to the person who left the animal in the veterinarian's care.

To be effective, the written notice must be made by registered mail within ten (10) days of failure to pick up the animal. The removal notice must be sent to the last known address for the person who left the animal in the custody of the veterinarian.

While not mandated by law, notice should also be provided to any person listed on the animal's medical records as having custody or ownership rights to the animal.

(2) The animal was left in the care of the veterinarian for an unspecified time period and the animal is not removed within twenty (20) days after written notice of removal is given to the person who left the animal in the veterinarian's care.

To be effective, the written notice must be made by registered mail. The removal notice must be sent to the last known address of the person who left the animal in the custody of the veterinarian. Importantly, the animal is not deemed abandoned until twenty (20) days after written notice to remove the animal has been given.

While not required by law, notice should also be provided to any person listed in the animal's medical records as having custody or ownership rights to the animal.

#### **What responsibilities does a veterinarian have to care for an abandoned animal?**

A veterinarian cannot dispose of an animal until it is deemed abandoned (or sold under the Lien law after proper notice). Accordingly, a veterinarian must care for and keep possession of the animal for the requisite ten (10) or twenty (20) day period described above.

(1) *New York Ag. & Mkts. Law §331.*

## **B. RELINQUISHMENT OF POSSESSION OF ABANDONED ANIMALS**

### **Once an animal has been deemed abandoned, how does a veterinarian dispose of it?**

Once the applicable ten (10) or twenty (20) day time period has lapsed without removal of the animal and the animal is determined to be abandoned, the veterinarian may transfer the animal to an animal rescue society or the applicable Town, City Village or County animal shelter for the area, in which the animal was abandoned.

The veterinarian is responsible for providing additional notice to the person who abandoned the animal of the transfer of the animal to the animal shelter. To be effective, the written disposition notice must be made by registered mail on the date the animal is disposed of. The disposition notice must be sent to the last known address for the person who left the animal in the custody of the veterinarian. The disposition notice must advise that the animal must be retrieved within five (5) days from the shelter or may be adopted or euthanized. While not required by law, notice should also be provided to any person listed in the animal's medical records as having custody or ownership rights to the animal.

## **C. ABANDONED VERSUS LOST ANIMAL**

### **When is an animal determined to be lost rather than abandoned?**

Abandoned animals are those left in the care of a veterinarian under the circumstances described above. There may be other situations when a veterinarian receives an injured or lost animal from a person other than the owner. For example, a person who is not the owner might be seeking assistance to reunite the lost animal with its owner.

### **Do different rules apply to lost animals?**

Yes. In the case of a lost animal, a veterinarian can turn over the animal to any police officer or officer of the ASPCA or other humane society. The lost animal will be held by the shelter for a period of five (5) days prior to adoption or euthanasia.

## **D. UNPAID MEDICAL BILLS AND THE ABANDONED ANIMAL**

### **What other options does a veterinarian have to dispose of animals left in their care?**

New York law grants a lien on an animal in the care of the veterinarian for up to the value of the unpaid services and/or care rendered to the animal (2). This means that an animal may be sold in accordance with New York Lien Law to satisfy an outstanding balance, in lieu of being determined abandoned. New York Lien Law requires any animal valued at \$100 or more to be sold by public auction, after proper notice. An animal valued at less than \$100 may be sold by private sale, but only after failure to pay for the services exceeds six (6) months (3). Satisfaction of a lien can be a lengthy and costly process and is usually pursued where the animal is very valuable and exceeds the cost of the unpaid services.

### **What effect does declaring an animal abandoned have on the veterinarian's ability to collect any owed fee?**

A veterinarian cannot both exercise rights under the Lien law and declare the animal abandoned. Rather, the veterinarian must choose a single course of remedy. Once a veterinarian chooses to classify the animal as abandoned, the veterinarian is precluded from placing a lien on the animal for payment of the services and must relinquish the animal if retrieved by the owner.

### **Can a veterinarian still seek to recover for unpaid services after an animal is declared abandoned?**

Yes. New York's Abandoned Property Law requires a veterinarian to hold the animal for a certain period of time to allow the owner the opportunity to retrieve the animal prior to it being abandoned. This might cause the veterinarian to expend additional sums of money to care for the animal during the applicable ten (10) and twenty (20) day waiting periods. These extra care costs are likely to be in addition to the unpaid balance for any services provided to the animal.

(2) New York Lien Law § 183.

(3) New York Lien Law § 202.