

AVMA | **PLIT**

Protecting you through it all

Veterinary Professional Liability

TN VMA Webinar

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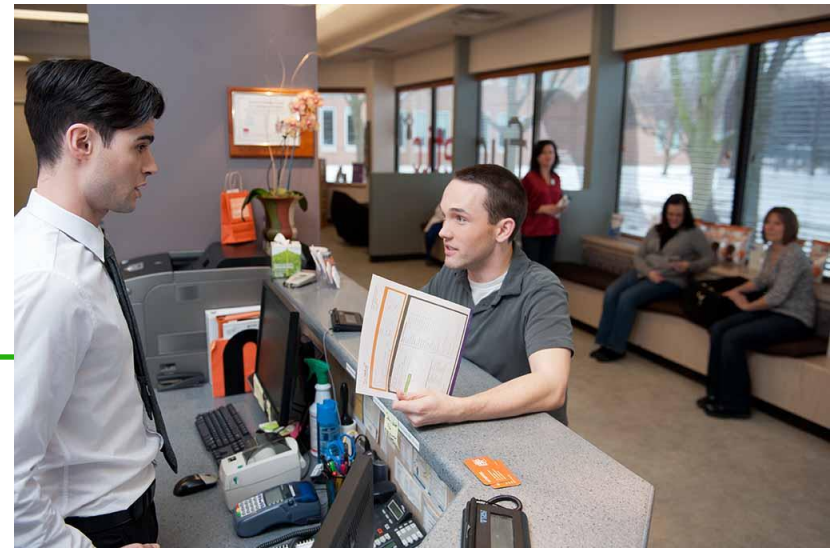
Agenda

- Professional liability(malpractice) and veterinary license defense- coverages and common claims



Adverse event or unfortunate outcome may lead to

- Refusal to pay or request for refund
- Negative social media postings/cyberbullying
- Malpractice Claim
- Board(License) Complaint



What is a Malpractice Claim?

- Allegation of negligence or practicing below the standard of care
- Request/demand for damages(money)
- Owner may get attorney or file suit
- May not be negligent but can still be accused



What is a Board Complaint?

- Complaint filed against a veterinarian with the State licensing agency
- Seeking action against a veterinarian's license
- Separate from a malpractice claim



Make sure you are protected!

- Professional Liability Insurance
- License Defense Coverage



PLIT Professional Liability Insurance

- Responds to allegations of negligence or if medical/surgical error made
- Will pay for damages if a mistake is made/negligence
- Will defend you if no negligence
- Purpose is to compensate the client if liability exists/mistake made
- Not mortality or goodwill insurance

PLIT Professional Liability Insurance

- Defense attorney fees, if indicated, are covered in addition to policy limits
- Your individual premiums and insurability are not affected if you have a claim
- Non veterinarian employees are covered under a PLIT insured practice owner

PLIT Veterinary License Defense Coverage

- Pays for legal fees to defend your veterinary license(based on policy limits)
- Attorney will review your written response to the Licensing Agency and attend Board hearing with you if required
- Endorsement to PL policy



Malpractice and Board Complaints

- Communication issues
- Inherent risks leading to adverse event
- Negligence(mistakes)
- Human injury(client injured during course of treatment)
- Fee Disputes and Collection Attempts
- Economic loss



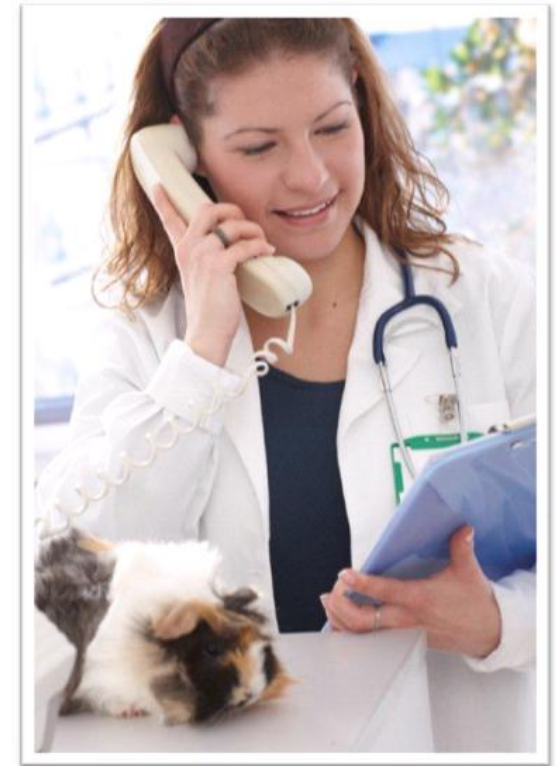
Avoiding Malpractice and Board Complaints

- 70-80% of claims are related to communication



Miscommunication may involve

- Treatment plans; options
- Costs
- Risks; complications
- Prognosis
- Surgery or discharge instructions
- Phone communication
 - Human pharmacies



Owner Consent

- Critical piece of communication
- Owners and Owners' attorneys have increasingly argued 'Lack of Consent'



Communication claim

- 12 year old poodle presented for dental
- Written consent for 'anesthesia and dental'
- Estimate for labwork, fluids and dental
- Severe periodontal disease was present and 10 teeth were extracted
- Owner became irate when picked up; bill higher than expected and stated extractions done without consent

NSAID claim

- 9 year old FS Lab with chronic DJD of right stifle
- Given two week trial of NSAID
- Dog better and owner requested refill of NSAID
- Dog started vomiting w/ blood
- Went to ER/Referral: elevated liver enzymes and surgery for perforated duodenal ulcer. Dog recovered after extensive hospitalization

NSAID claim continued

- Owner attorney alleged 1. no information given to owner about risk of NSAID so no consent and 2. no blood work done prior to giving NSAID
- Negligence?
- Insured veterinarian consented to settle and claim settled for \$8,900 which were the veterinary costs at ER and Specialty Hospital



How do you obtain owner consent?

- Discuss risks vs. benefits
- Use Client Information Handouts(NSAIDS)
- Contact owner if something changes or if something different needs to be done
- Document



Treatment Plan Estimates

	Low	High
Blood draw and chemistry panel	\$50.00	\$50.00
Examination	\$65.00	\$65.00
Diagrams	\$93.00	\$267.00
	\$60.00	\$180.00



Surgical Consent Form

Owner's Name: _____
Address: _____

Patient's Name: _____
Species: _____
Breed: _____
Sex: _____
Date of Birth: _____

I am the owner or the agent for the owner of the animal described above, and I have the authority to execute this consent.

By signing this consent and authorizing the performance of the procedure, I understand that:

Avoiding Malpractice and Board Complaints

- Good Communication
- ***Good Medicine***



Practice Good Medicine

- Have good procedures/processes in place to ensure quality/continuity of care
 - Best practices
 - Team effort
 - Team training
- Continue your education to stay current

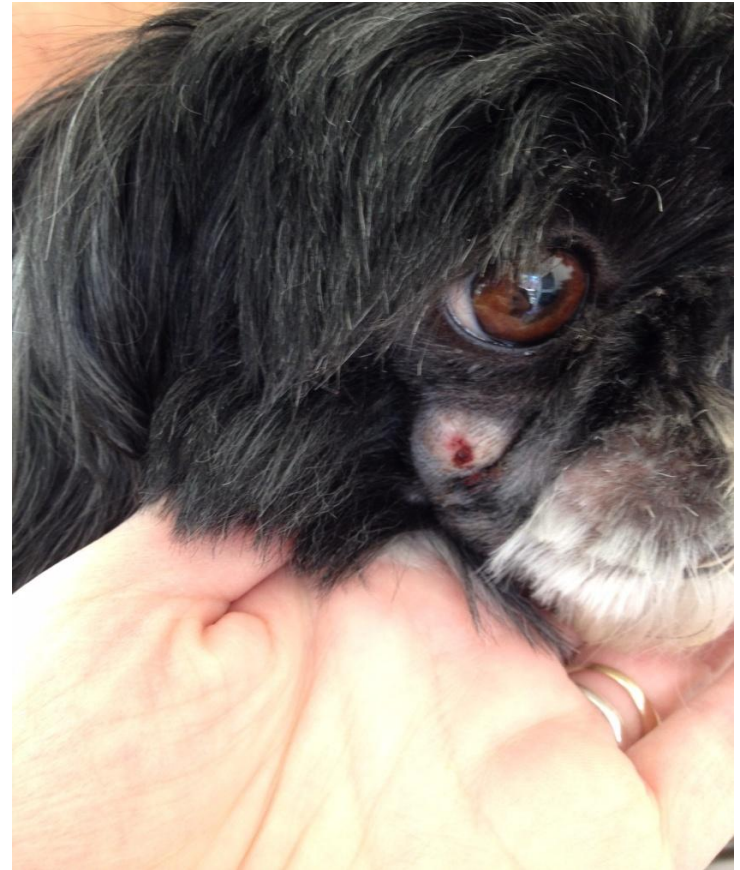
Making recommendations

- Recommend what the animal needs even if owner has financial constraints
- Recommend 24 hour care if indicated
- Recommend referral if indicated
- Recommend necropsy if cause of death is unknown
- Document if owner declines



Adverse events still happen

- Medical or surgical error
 - Veterinarian or team member
- Inherent risks



Inherent risks

- Adverse outcomes without error(no negligence)
 - Many perianesthetic deaths
 - Adverse drug reactions, vaccine reaction
 - Surgical infections



Pre purchase exam

- Dr. D did PPE on Thoroughbred. Sold for 135K.
- 3 weeks later buyer contacted Dr. D for pre purchase radiographs and stated her DVM had diagnosed carpal chip.
- Dr. D re-reviewed the PPE films and noted the missed bone chip.
- Owner demanded 142K for purchase price, medical care, and travel/transport

PPE continued

- Negligence?
- Dr. D consented to settle
- Insurance carrier negotiated settlement of \$115K for horse and \$7K for incurred medical costs, travel and transport



Closed pop off valve

- 8 year old Maltese presented for dental and mass removal
- Technician induced, intubated and connected to gas
- After dental dog was repositioned for mass removal and was light- gas increased slightly and dog bagged few times. Few minutes later it was noted to be cyanotic. It was then noticed the pop off valve was closed.
- Dog arrested and could not be revived
- Negligence?



Disclosing a medical error

- Do what is in the best interest of the animal
- Contact your malpractice carrier for advice on what to say and do
- Communication with client
- Be professional, be empathetic, don't get defensive
- Be honest. Can you apologize?

Avoiding Malpractice and Board Complaints

- Good Communication
- Good Medicine
- *Keep People Out of Harm's Way*



Human injury

- If client is injured during treatment of their animal, this is a professional liability matter
- Bites from dogs and cats
 - injuries can be minor or catastrophic (including amputations of finger, limb)
- Kicks from horses/injuries from large animals
- Jury/Judges historically not sympathetic to DVMs involved in human injury cases- high dollar settlements
- 18% increase in human injury claims in 1 year



Owner bitten

- Client presented 2 year old M Mixed breed dog for ear infection
- Owner advised dog was difficult to restrain and last vet had to sedate to exam ears
- Tech went into room and asked owner to muzzle dog
- Tech attempted to get ear swab and dog “flipped out”

Owner bitten

- Owner was bitten in face- breaking nose and two front teeth
- Medical and dental care \$16,500
- Negligence?
- Claim settled for medical/dental costs



Defending Malpractice and Board Complaints

- Good medical records



Medical records

- Critical for defending a complaint
- If something is not documented, owner or owner's attorney may argue it did not happen
- Proves quality of medical care
- Provides good patient care/continuity of care



Medical records

- Complete in timely manner
- Owners entitled to copies upon request
- Violations often found with Board Complaints-
make sure to review your State Practice Act for
medical record keeping requirements

Medical record problems

- Illegible
- Not documenting recommendations and what owner declined
- No consent forms- review these
- Lack of records or not enough information
 - no anesthetic drugs, dosages, anesthetic monitoring
 - incomplete PE
 - no surgery report, no suture information

Responding to client complaint

- Request for refund
 - Was a mistake made or not?
 - Good will gesture is a business decision
- If receive Board complaint, any demand for damages or a mistake is made, contact PLIT

Action Center

- *Helping Veterinarians Take Control by Taking Action*
- 24/7 access to information for veterinarians facing a potential or actual professional liability claim or license defense complaint
- www.avmaplit.com/actioncenter

ACTION CENTER

I have a potential or actual professional liability claim or veterinary license complaint.

What do I do?

CLICK HERE

AVMA Cyberbullying resources

- Cyberbullying hotline
 - Staffed 24/7
 - 30 minutes of free consultation
 - Additional consultation available
- Reputation management service
- avma.org

Veterinary license complaints

License complaint

- The Board responds to complaints from:
 - Clients
 - Other veterinarians
 - Just about anyone
- The Board does not ignore complaints and are often bound by statute to investigate

Protecting your rights

- Entitled to an attorney and an attorney is recommended
- The most critical stage of the process is often near the very beginning
 - Writing your response to complaint
 - Take it seriously
 - Be factual
 - Be objective and professional

Board complaint

- 11 year old mixed breed presented for lethargy and not eating. PE did not reveal any significant abnormalities. DVM recommended bloodwork, UA, and radiographs. Owner declined. Two days later dog worse and took to ER where radiographs showed abdominal mass. Owner filed Board complaint alleging insured failed to diagnose dog and should have palpated mass.

Outcome

- Board closed the case based on DVM's response and medical records which showed complete PE with no abnormal findings on abdominal palpation and documentation of owner declining diagnostics

Summary

- Make sure you are covered
- Good communication
- Good medicine
- Keep owner out of harm's way
- Good record keeping
- Call PLIT if you have a situation which may lead to a claim



Questions?

Thank you for your attention!

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More claim examples

Thermal injury

- 9 year old MN DSH presented for dental and extractions- heating pad used towards end of procedure and during recovery
- 5 days later returned for skin lesion on left side
- Treated but progressed and referred for extensive thermal injury
- Negligence?
- Settled for \$6200

Thermal injuries

- Electric heating pads- do not use
- Anything placed in the microwave
- Use safe warming devices



Boxer restraint

- 15 month old Boxer presented for foot problem
- Dog anxious and history of fear aggression
- Muzzled after tried to bite
- Second tech came in to help hold- dog urinated and defecated and expressed glands
- Dog continued to struggle and went limp
- Revived and referred but later euthanized

Please consider the following components of the professional liability insurance offered by the AVMA PLIT program. Note your desired coverage on your application, or visit avmaplit.com to apply online. All veterinarians must have their own individual certificate.

1. Determine the species type that describes your practice*

Predominantly Equine:

70–100% of professional activity is devoted to equine practice

Food Animal or Mixed Practice:

70–100% of professional activity is devoted to food animal practice OR any combination in which no one animal type is 70% or more

Predominantly Small Animal:

70–89% of professional activity is devoted to small animal practice, or regulatory medicine involving equine, food animal, and mixed practice

Small Animal Exclusive:

90–100% of professional activity is devoted to small animal practice, practicing with exotics, or small animal regulatory medicine

** The Trust classifies wildlife, zoo, and fur bearing animals as small animal. Cervidae, poultry, and ratites are classified as food animals. Please evaluate your classification accordingly.*

2. Choose your primary limit plan required coverage

The limits shown are per occurrence and annual aggregate, and defense costs are paid in addition to these limits

Primary professional liability limit options

Plan	Limits (per occurrence/aggregate)	Predominantly Equine	Food Animal <i>or</i> Mixed Practice	Predominantly Small Animal	Small Animal Exclusive
1	\$100,000/300,000	\$1,644	\$611	\$261	\$185
2	\$300,000/900,000	\$1,916	\$712	\$292	\$205
3	\$1,000,000/3,000,000	\$2,531	\$880	\$353	\$238

State and local taxes may apply

3. Excess limit plans *recommended optional coverage*

For higher limits in addition to the primary limits, select an excess limit plan. You must have Primary Plan 3 to qualify for excess limits.

Excess professional liability limit options

Plan	Limits (per occurrence/aggregate)	Predominantly Equine	Food Animal <i>or</i> Mixed Practice	Predominantly Small Animal	Small Animal Exclusive
1	\$1,000,000/1,000,000	\$460	\$227	\$133	\$102
2	\$2,000,000/2,000,000	\$749	\$368	\$215	\$166
3	\$3,000,000/3,000,000	\$990	\$487	\$285	\$219
4	\$4,000,000/4,000,000	\$1,162	\$572	\$335	\$258
5	\$5,000,000/5,000,000	\$1,288	\$633	\$371	\$286

4. Veterinary license defense *recommended optional coverage*

Legal fees to defend your veterinary license are not covered under the primary limit plan. License defense will respond when you incur legal costs to defend your veterinary license if a complaint is filed with your state licensing board.

Please note: This covers disciplinary issues that arise out of incidents that occur after the date coverage is secured. If you have had a regulatory action taken against any veterinary license in the past three years, you must wait three years from the date of the regulatory action to apply for this endorsement. A regulatory action means any formal warning, restriction, probation, fine, penalty, suspension, or revocation of any veterinary license.

Plan	Limit	Annual premium
1	\$25,000	\$85
2	\$50,000	\$99
3	\$100,000	\$112

A dismissed complaint is not considered a regulatory action. If you are involved in an ongoing investigation, you are not eligible for coverage. Please contact us when the outcome has been finalized to determine eligibility.

5. Animal bailee (professional extension) *recommended optional coverage for practice owners*

The animal bailee endorsement covers damage to animals in your care or custody resulting from fire, wind, theft, escape, flood, vandalism, attack from other animals, and other perils not related to treatment.

If you hospitalize, board, or transport animals, you could be held responsible for the injury, loss, or death of the animals. Only available to owners; a separate endorsement is needed for each practice location.

Plan	Total limits of liability			Animal premium
	Any one animal	Transportation	Per specified premises	per location
1	\$2,000	\$6,000	\$25,000	\$16
2	\$4,000	\$12,000	\$50,000	\$26
3	\$6,000	\$18,000	\$75,000	\$36
4	\$8,000	\$24,000	\$100,000	\$46
5	\$10,000	\$30,000	\$130,000	\$56
6	\$16,000	\$48,000	\$200,000	\$66
7	\$20,000	\$60,000	\$250,000	\$76
8	\$25,000	\$75,000	\$315,000	\$86
9	\$50,000	\$150,000	\$625,000	\$1,328
10	\$100,000	\$300,000	\$1,000,000	\$2,273
11	\$250,000	\$750,000	\$1,000,000	\$2,682
12	\$500,000	\$1,000,000	\$1,000,000	\$3,303
13	\$1,000,000	\$1,000,000	\$3,000,000	\$4,613

Please note: Coverage for storage of embryos and semen is not provided by the primary professional liability, excess professional liability, or extension (animal bailee) coverages. If coverage is desired, contact the PLIT office.