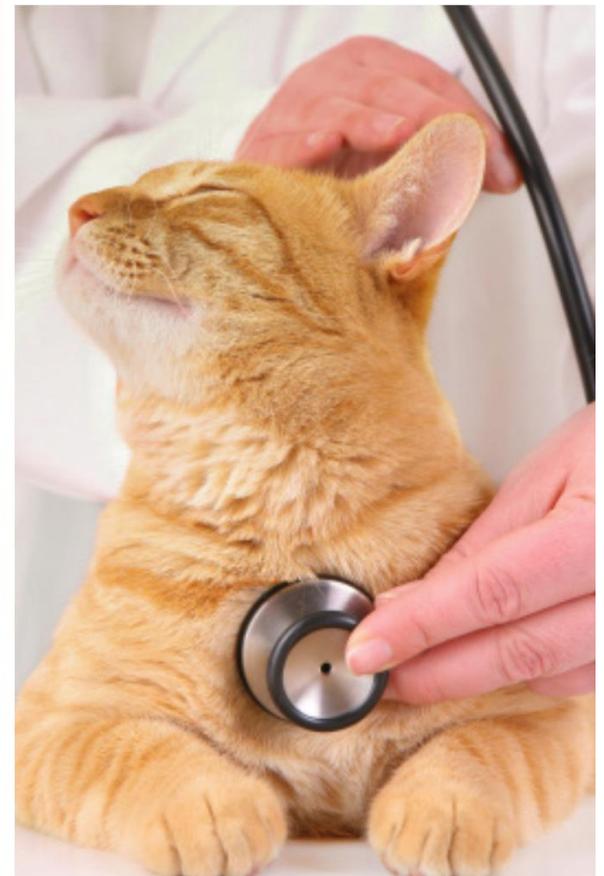


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Protecting you through it all

Protecting Yourself Against Malpractice Claims

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April 15, 2015



Agenda

- Veterinary Professional Liability Issues: Standard of care, Non economic damages, Owner consent, Compounding and Ethics
- Disclosure of medical errors
- Claim reporting and management
- Most common causes of claims and actual claim examples

Changes in Society

- Human-Animal Bond
- Different values placed on pets
- Expectations have increased
- Willing to pay what it costs
- U.S. has become the most litigious society
 - 4% of the world's population and 94% of the lawsuits

Types of Claims Veterinarian

- **Professional Liability (Malpractice)**
 - Allegations of negligence or practicing below the standard of care
- **Board Complaints-Veterinary License Defense**
 - Complaints filed with Veterinary State Boards
 - Veterinary State Practice Act
- **Professional Extension-Animal Bailee**
 - Injury or death of a patient while in care, custody, or control
 - Not related to veterinary treatment

Types of Claims Common to Business Owners

- **Workers compensation**
 - Injury to an employee
 - Required by law
- **General liability claims**
 - Damage to property, buildings (required by bank), business vehicles, equipment, business disruption
 - Human injury other than employee
- **Employment practice claims**
 - Allegations of wrongful termination of an employee

Malpractice

- A licensed veterinarian by virtue of the license granted is presumed to possess at least ordinary skills, knowledge and competence

What is Malpractice ?

Definition of Malpractice

Failure of a professional person to use such reasonable skill and diligence as are ordinarily expected of careful, skillful, and trustworthy persons in his or her profession

- Practicing below the standard of care or negligence
- What is the Standard of Care?
- SOC is determined to be what a reasonable veterinarian would do in a particular situation

Proving Negligence

- Duty of Care
- Breach of the Standard of Care
- Proximate Cause
- Damages

Duty of Care

- Veterinarians have a duty of care to provide veterinary services of a certain standard
- Easy to prove once a veterinarian has agreed to provide veterinary services
- Duty of care vs. Duty to treat

Duty To Treat

- When do you or should you provide veterinary services?
- Legal vs. Ethical considerations and situations
- VCPR
- How do you fire a client?

Breach of the Standard of Care

- Occurs when veterinarian fails to meet the SOC as established by the veterinary profession
- No intent needed, can simply be a mistake or human error
- If client files suit, they usually will need to provide an expert witness to support their claim

Standard Of Care

- It can vary
 - rural 1 person practice vs. referral practice/tertiary care facility
 - LA vs. SA owner restraint of animals
- Often a gray area
- Submitted claims are reviewed on a case by case basis
- Difference of professional opinions
- It changes- important to stay updated

Standard Of Care

- Includes
 - Physical Exam
 - Diagnostic Tests
 - Treatment Plan
 - Procedures performed
 - Aftercare
 - Medical Records
 - Client communication

Standard of Care

- **SOC is set by what or who?**
 - **Education provided in Veterinary Schools**
 - **Precedents set by veterinarians as well as court cases**
 - **Veterinary colleagues, expert testimony, continuing education programs**
 - **Publications-journal articles, text books**
 - **Guidelines-AVMA, AAEP, AASV, AAHA, specialty associations**
 - **State Practice Acts**
-

Inherent Risks

- **Known, unavoidable complications**
- **Self trauma - chewing, uncontrollable behavior causing injury...**
- **Damages that occur may not be because the SOC was below normal, but an inherent risk of the procedure.**
 - **anesthesia/surgery complications**
 - **medication/vaccine reactions**

Inherent Risk or Negligence

- Claim example for discussion

Proximate Cause

- Veterinarian's actions or omissions proximately or closely caused the harm

Damages

- Client must prove harm or damages
- Animals are considered property under the law so damages are usually in the form of “economic damages”
- The purpose of Veterinary Professional Liability insurance is to make the owner whole again

Damages

- **Compensatory:** Damages paid to compensate the claimant for loss, injury, or harm suffered as a result of another's breach of duty. (e.g., in a negligence claim under tort law)
 - Economic
 - Non-Economic
- **Punitive:** Monetary compensation due to malicious or grossly negligent act that goes beyond that which is necessary to compensate the individual for losses and that is intended to punish the wrong doer (in a civil trial)

Damages

- Economic Damages:
 - Market Value of animal
 - Cost of Services/Veterinary care
 - Intrinsic Value(animal's value to its owner)-non-economic in some opinions
- Non-Economic Damages (NEDs):
 - Pain and suffering
 - Emotional Distress
 - Loss of Companionship

Monetary Value

- **How much are your patients worth?**
- **Usually have a set market value according to breed registry, bloodlines, performance records, earnings records**
- **High level trained canines can reach thousands**
- **Periodically check policy to insure proper coverage**
- **Market value can easily reach high \$ settlements**

AVMA Policy

Compensatory Values for Animals Beyond Their Property Value: The American Veterinary Medical Association recognizes and supports the legal concept of animals as property. However, the AVMA recognizes that some animals have value to their owners that may exceed the animal's market value. In determining the real monetary value of the animal, the AVMA believes the purchase price, age and health of the animal, breeding status, pedigree, special training, veterinary expenses for the care of the animal's injury or sickness, related to the incident in question, and any particular economic utility the animal has to the owner should be considered. Any extension of available remedies beyond economic damages would be inappropriate and ultimately harm animals. Therefore, the AVMA opposes the potential recovery of non-economic damages.

Non-Economic Damages

- PLIT supports AVMA's position on NEDs
- Human-Animal Bond: Different value placed on pets now
- Rise of Animal Law
 - AVMA's Legal Outreach Program
- Court cases can set precedents and legislative actions can make laws that may allow NEDs.
- Unintended consequences would affect veterinary medicine

Unintended Consequences of NEDs

- Increased costs- veterinary care, animal related services and products, and veterinary professional liability rates
- Increased litigation
- Elevation of human- animal relationship above human-human relationships
- Negative impacts on society and animals- Many people can't afford/won't be able to afford care

Non Economic Damages

- Perhaps moving towards animals as a special form of property= living property
- Courts have awarded damages for “intentional infliction of emotional suffering” in cases involving intentional harm to an animal if the conduct was “outrageous” or owner witnessed event. These cases were not veterinary negligence cases.

PLIT Professional Liability (Malpractice) Insurance

- A Malpractice Policy responds to
 - Negligence
 - Allegations of veterinary negligence
 - Must be considered a veterinary incident and be related to treatment
- Covers
 - The named insured
 - If insured is the practice owner, it covers the hospital and non veterinarian employees

Malpractice Insurance is

- Not mortality insurance
- Not goodwill insurance
- Policy outlines the coverages
- Be aware of exclusions
 - Regulatory actions
 - Insured's fees
 - Loss of embryos, semen, cells in storage or transit
 - Employment contracts
 - Dishonest, fraudulent, criminal acts

Malpractice vs. Board Complaint

- What is the difference?
 - Request for damages vs. owner wanting action against your license
- Legal fees to defend your license are not covered under your AVMA PLIT-sponsored Professional Liability Policy without the Veterinary License Defense endorsement.
 - Do you have this?

Board Complaints

- **Client complaints submitted to your state board**
- **These claims are not seeking monetary compensation, but action against a veterinarian's license**
- **State Board Actions include: Warnings –fines - suspensions - revocation of license**
- **Board actions are a matter of public record**

Veterinarian License Defense Endorsement

- responds to complaints against your license
- provides legal expenses for
 - fees associated with preparing a response letter
 - conferencing with the licensing agency
 - attending hearings



Veterinary License Defense

- Endorsement to your PLIT professional liability policy
- \$69 or \$99 annual premium
- Up to \$25,000 or \$50,000 per year in legal fees to defend complaints against your license

Profession Extension-Bailee

- Bailee - individual who has temporary rightful possession of another's property

Professional Extension (Animal Bailee)

- Valuable to practice owners
- One owner at each practice location
- Added endorsement to policy
- This coverage responds to losses due to injury or death of animals in your care, custody, and control from causes **unrelated to treatment.**

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Professional Extension (Bailee)

- **Covers damage to animals in your care, custody, and control, resulting from:**
 - **Fire**
 - **Wind**
 - **Theft**
 - **Escape**
 - **Flood**
 - **Vandalism**
 - **Attack from other animals**
 - **Injury while boarding**
-

SA Bailee Claim

- Employees walking two dogs at same time. Big dog lunges and tries to bite employee who drops leash. Big dog attacks little dog being walked resulting in critical injuries.
- Little dog transferred to specialty center->\$4000 in care.

Boarding Animals

- Medical Boarders
 - Diabetics
 - Seizures
 - Addison's
- Long term Boarders
 - Keep check on weight

Embryo and Semen Storage Coverage

- If you store semen and/or embryos that belong to your clients, you are responsible for the viability of this property of others while in your care, custody, or control. This coverage responds to all damage and loss of the stock while it is being stored at your facility or while you are transporting it to or from client locations.

How Much Are Your Patients Worth?

- **High level trained canines worth thousands**
- **Periodically check policy to insure proper coverage**

Coverages through-out the Clinic



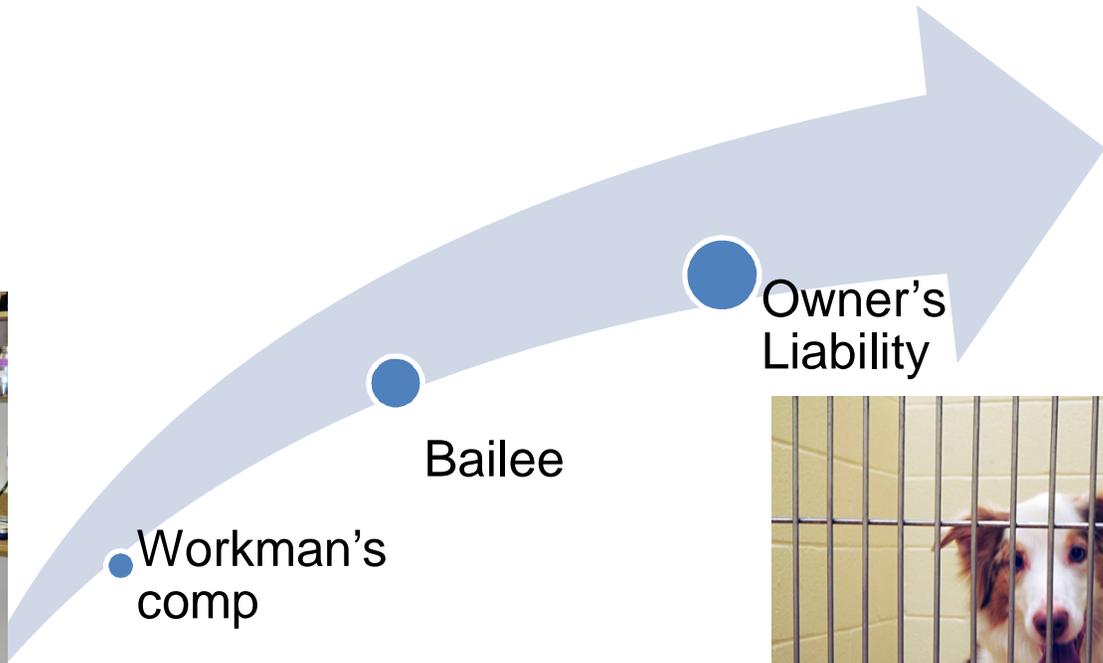
● General Liability

General Liability

● Liability



Coverages through-out the Clinic



Communication is Important

- It is estimated that 65% of all claims are related to some breakdown in communication
- What can you do?

Malpractice and Board Complaints

- Communication Problems(Lack of communication, poor communication or miscommunication)
 - Lack of informed owner consent
 - Failure to inform of risks, prognosis or options
 - Failure to inform client of costs/misunderstanding of costs
 - Failure to give complete written and verbal discharge instructions
 - Not offering referral when indicated
 - Failure to listen, to be available, or to care (client perception)
 - Communication breakdown leading to mistake

Owner Consent

- Critical piece of communication with owner
- Owner attorneys have increasingly used 'Lack of Informed or Owner Consent' as a strategy in court and are often successful.

Owner Consent

- Discuss risks vs. benefits
- Give client information handouts
- Verbally explain written instructions
- Have clients sign estimate forms and surgery release forms
- Ask “What questions do you have ?” or “Do you have any concerns ?”

Dental Claim Example

Dentals

- **4.8% of claims 2005-2010**
- **Extractions- One of the most common communication breakdowns**
- **Retained roots**
- **Tracheal tears in cats**
- **Fractured jaws**
- **Dental radiographs?**
- **Call the client before doing additional procedures**
- **Review your dental/surgery written consents/estimates**

Dentals

- **Extractions**
 - **One of the most common communication breakdowns**
- **Call the client before doing additional procedures**
- **Review your dental/surgery written consent forms and medical treatment plans**

Medical Records Must Be Accurate and Legible

- *Rule of Thumb followed by licensing boards and attorneys*

IF IT WAS NOT RECORDED IN THE RECORD, THEN IT WAS NOT PERFORMED

- Written records performed at time of visit easier to prove than trying to prove a fact by memory alone later

Medical Record Problems

- Illegible
- Not documenting recommendations & what owner declined
- No consent forms
- Inappropriate entries
- No documentation on boarding animals-especially medical boarders such as diabetics
- Lack of records or not enough information
 - no anesthetic drugs, dosages, anesthetic monitoring
 - incomplete PE - no surgery report, no suture info

Why?

- **Required by state veterinary boards & practice acts**
 - **Below Standard of Care not to maintain complete records**
 - Proves quality of medical care
 - Reflects current/past care
 - Improved assessment of referral patients by referring DVM
 - **Helps resolve client disputes**
-

Medical Record Problems

- **Illegible**
- **Not documenting recommendations and what owner declined**
- **No consent forms**
- **Inappropriate entries**
- **No documentation on boarding animals-especially medical boarders such as diabetics**
- **Lack of records or not enough information**
 - **Incomplete anesthesia reports**
 - **incomplete PE &/or surgery report**

Dosage errors

- Human error
- Overdose-decimal point moved
- Insulin syringes
- Drug mix-up
- Zyrtec OTC and owner got Zyrtec D
Zyrtec D contains pseudoephedrine

Ways to Avoid Medication Errors

- Write out the entire prescription
- Give a copy of all prescriptions - even if called into pharmacy
- DO NOT use trailing zero. Do use a leading zero 0.5 mg
- Use a computerized prescription system to minimize misinterpretation of handwriting

Compounding

- Potential liability issues
 - Polo ponies
 - Human fungal meningitis outbreak

What is Compounding

- Compounding is any *manipulation* of a drug beyond that stipulated on the drug label. Compounding should be implemented based on a licensed practitioner's prescription, to meet the medical needs of a specific patient.

What is Compounding

- Examples of compounding would include:
 - mixing two injectable drugs
 - creating an oral suspension from crushed tablets or an injectable solution
 - adding flavoring to a commercially available drug.

Compounding Pharmacies

Are a necessary and beneficial component of veterinary practice

Compounded drugs...

- are not FDA-approved
- are not generic drugs

Federal regulations require that in order to compound a drug legally:

- A valid Veterinarian-Client-Patient relationship (VCPR) must exist.
- The health of an animal must be threatened or suffering or death may result from failure to treat.
- There must be no FDA-approved, commercially available animal or human drug that, when used as labeled or in an extralabel fashion in its available dosage form and concentration, will appropriately treat the patient.

Compounded Drugs

- Pharmacy compounding of veterinary drugs has exploded in the past few years
- Allows for DVMs to have formulated
 - Drugs no longer commercially available
 - Drugs not available on animal health market
 - Reformulate drugs into suitable dosage forms

Compounded Drugs

- No regulations on raw material sources
- No quality standards
- No stability data requisite
- Supposed to be a prescription for a specific need in a specific animal (VCPR)
- Bulk compounding is NOT legal



Compounded Drugs

- It is **illegal** to compound a specific product when there is an approved drug form of that specific product except to make a different dosing form.
- The approved product must be used to make the compounded new dose form.
- It is **illegal** to mark up prices on compounded drugs

Compounded Drugs

- It is **illegal** to place expiration dating on compounded drug beyond 180 days from preparation
- It is **illegal** to have a drug compounded in order to obtain the drug at a lower price
- Compounded products are **not** “generic” forms of approved drug products!

Compounded Drugs

- *If you use a compounded product, **you assume liability for any adverse effects or efficacy failure***
- Drug manufacturers are required to carry product liability insurance
- Pharmacies are not required to carry product liability insurance

Recommendations

- Use FDA approved products when available
- Use a compounding pharmacist that follows FDA Guidelines for Good Compounding Practices and has product liability insurance
- Use compounded products only for individual animals

Continued..

- Veterinarians must comply with all aspects of the federal extralabel drug use regulations including record-keeping and labeling requirements.
- All relevant state laws relating to compounding must be followed.

Compounding Resources

- AVMA.org
 - AVMA Policy on Compounding and Policy on Compounding from Unapproved(Bulk) substances
 - Many other resources
- FDA Center for Veterinary Medicine
 - www.fda.gov/cvm

Ethically Speaking.. What do you do?

- Emergency situations
 - Good Samaritan presents animal
- Monetary Constraints
 - Can't afford all the care that is needed
 - Emergency vs. non emergency
 - Boarding/treatment- owner wants animal and can't pay

Ethically Speaking.. What do you do?

- Microchips
 - Person presents pet and say they found it and are keeping it.
Microchip found.
- Mistake is made- do you tell the owner the truth

What do Practice Owners Need?

- Business Owners Portfolio should include
 - Workers' Compensation
 - Mobile Practice coverage
 - Commercial Auto
 - Employment Practices Liability
 - Flood Insurance
 - Umbrella (BOP, WC, Auto)

Business Owner's Package

BOP (3 in 1)

- Building (property)
 - Required by bank
- Contents (property)
- General Liability
(higher limits-3M)
- Key Endorsements
specific to
veterinarian's BOP

Most Common General Liability Claims in Veterinary Practices

- Slips, trips and falls inside and outside of building
 - Wet floors (urine, tracking rain/snow, spills)
 - Clutter
 - Slippery side walks (rain/ice/snow)
 - Dog on leashes
- Animal bites

Loss Prevention Discussion

- Ensure exterior of the building has adequate lighting
- Keep floors dry
- During snow or ice related conditions, monitor parking lots and walkways hourly
- Document by using a sign-off procedure verifying status of walkways, etc.



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Loss Prevention Continued

- Restrict owners' access to boarding area
- Check locking mechanisms on kennels and cages regularly
- Verify all kennel doors are locked before bringing in new boarder
- Keep doors to boarding area closed during the boarding intake and release process

Key Endorsements Specific to Veterinarian's BOP

- Mobile Coverage of Equipment
- Animal Damage to Buildings or Equipment
- Umbrella Coverage (BOP, WC, Auto)
- Hired / Non Owned Auto
- Business Interruption Coverage (12 months)
- Spoilage coverage

Business Owners Package (BOP)

- Business interruption
- Mobile practice
- Damage to buildings and contents
 - caused by animals in your care custody and control

Property Insurance Claims Equipment Damage Caused by

- Dog chews Dr. T's ultrasound probe cord while owner and dog waiting in exam room, causing \$4,200 in damages.
- Cat gets loose in exam room, climbs wall, knocks down video otoscope, damaged beyond repair.

Mobile Practice Commercial Auto

- Commercial Auto (Covers business)
 - Under business name
 - Most excludes equipment - Enhanced mobile coverage
 - Vet box depreciation - May not be covered for replacement value (mobile equip floater on BOP)
 - Hired / Non Owned Auto
 - Covers employee drivers
 - Accidents (injury) occurring during business related errands

Key Endorsements Specific to Veterinarian's BOP

- Mobile Coverage of Equipment
- Animal Damage to Buildings or Equipment
- Umbrella Coverage
- Hired / Non Owned Auto
 - Accidents (injury) occurring during business related errands
- Business Interruption Coverage (12 months)
 - Clean up, salaries, mortgage payment, temporary space
- Spoilage coverage
 - responds to the loss of perishables (such as biologicals)
 - By definition, biologicals include semen and embryos

Workers' Compensation

- Required by law
- Largest premium policy
- High experience MOD can negatively affect premium
- Can prevent claims and reduce premiums through good risk management policies
- Volunteers covered

Workers' Compensation

- Loss history drives premium
- Frequency of claims
- Severity of claims

Most common WC Claims

- **Injuries from dogs and cats**
 - **Strains from large dogs, lifting, walking on leash**
 - **Bites**
 - **Scratches**
- **Cuts from scalpel blades, pet food can tops**
- **Punctures from needles**
- **Slips, trips and falls**
- **Other- rabies exposure txs, ringworm, scabies**
- **Largest claim payouts**
 - **slip on wet grass while walking dog**
 - **large dog restraint (neck injury)**

Important endorsements to look for on your hospital's Workers' Compensation

- Waiver of Subrogation
- Volunteer Coverage
 - Preceptorships typically covered
 - Popular activity common to practices
- Higher Limits of Liability (3M)
 - Animal handling/restraint carries higher risk of injury to employees

Workers' Compensation Claim Examples

Hidden Costs of Workers' Compensation Claims

- **Lost productivity of injured worker**
- **Overtime expenses incurred by staff needed to make up for injured worker**
- **Lost productivity of employees who assist in accident rescue, cleanup and repairs**
- **Cost of hiring and training new employees to fill in for the injured worker**
- **Increase in insurance costs due to frequency or severity of injuries**

Loss Prevention for Work Comp

- Set the standard for safety
- Extra restraint measures-chemical restraint
- Avoid noise and distractions
- Ensure employees are properly trained prior to patient handling



Loss Prevention Continued

- Examine large dogs on the floor
- Install at least one lifting table for use with patients over safe lifting weight
- Consider pre-placement physical exams to determine if employee meets physical demands of the job
- Train employees in proper lifting techniques

Employment Practice Liability Insurance (EPLI)

Policy responds to allegations of:

- Wrongful Termination
- Sexual Harassment
- Discrimination
 - age, race, gender, religion, pregnancy
- Family Medical Leave Act violation
- Wage and Hour Law Violations
 - not covered in every state
- Hostile Work Environment
- Third Party Liability

The Pregnancy Discrimination Act of 1978

- Prohibits discrimination based on pregnancy (refusing to hire, forcing to take a leave, failing to hold job open for pregnancy-related absence)
- General fears for safety does not justify different treatment
- Illegal to discharge, transfer or penalize employee because she is pregnant
- Must be capable of performing essential job functions to be protected

The Pregnancy Discrimination Act of 1978

- Employer can take action based on ability to perform safely and effectively
 - Require medical certification of fitness for duty
 - Assign light duty
 - Require leave of absence
- Employee complaints alleging pregnancy-based discrimination not covered by WC, PL or GL policies
- Covered by employment practices liability insurance

Pregnant Employee Plan

- What tasks can be performed-Physician
- Which tasks should be avoided-Physician
- Outline job responsibilities/safety risks
 - Xray exposure, anesthetic gases, patient bites/scratches, kicks
- Signed release if employee chooses to continue certain tasks after Physician advise

Flood Coverage.....

- Flood is excluded in most Business Owner's Policies
- **Most commonly ignored coverage**
- All flood policies are secured through the National Flood Insurance Program (NFIP)
- Rates are determined by amount of coverage and flood zone
- Average commercial flood claim ~ \$75,000

Umbrella Liability

- Extra coverage over BOP, Commercial Auto and Worker's Comp
 - Also available for PL and Personal assets
- Covers catastrophic losses
- Protects business and personal assets
- Peace of mind

Good Communication Skills

Effective Communication Reduces Malpractice Risk

- **Ask owner's opinion and use open-ended questions and reflective listening**
- **Owner Consent- *Be sure and document in record***
 - Written Consent forms
 - Estimates
- **Call backs- *Document key client communications***
- **Staff training**

Communicate Effectively

- Clients
- Staff
- Colleagues

History

- Obtain pertinent records
- Ask what medications has been given

Records

- Provides realistic budgets for the client.
- Provides dxs/txs/ and PROGNOSIS for the client.
- Provides updates, alternative txs,
- Provides evidence of client's acceptance or refusal of txs. OWNER'S CONSENT
- Beware! If economy compromises quality, cost-cutting txs can backfire, i.e.-sx
- All records subject to subpoena-all communications, billing, clinical care.

Effective Communication

- Practice good medicine-recommend what is in the best interest of the animal-document if owner declines recommendation.
 - Referral if additional expertise needed
 - Referral for 24 hour care
 - Emergency situations/monetary constraints

Disclosing Medical Errors

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Impact of Honesty and Openness

- Rebuilds trust
- Live our professional ethics
- Retain clients
- Help negotiate fair settlements
- Reduce malpractice suits, state licensing board complaints

Barriers to Disclosure

- **Culture of infallibility and shame**
- **Lack of training**
- **Fear of:**
 - **Damage to reputation**
 - **Adding further emotional distress to client**
 - **Malpractice claim or licensing board complaint**

Gallagher and Lucas, 2005

What do clients want?

- What happened?
- How did it happen?
- What happens next for my pet?
- Apology
- How will reoccurrence be prevented?
- Offer to make reparation

Liebman & Hyman, 2004; Witman 1996, Blendon 2002,
Schneider 1999, Lazare 2006

TEAM Model for Disclosure

Be Truthful –
acknowledge
error
and harm

Apologize
and express
regret



Empathize
with client
experience

Manage
through to
resolution

TECHNIQUES: T – E – A – M

T = Be Truthful – Acknowledge Error & Harm

- **Anticipate** with warning and expression of sympathy

“I have some difficult news to share with you. I am very sorry to have to tell you...”

TECHNIQUES: T – E – A – M

Client's Emotions

- Shock and anger are common
- Use humility and **E**mpathy:
 - “I can see you're angry and that's understandable”*
- Defensive comments will heighten client frustration

TECHNIQUES: T – E – A – M

APOLOGIZE

“I am terribly sorry for this error we made that has caused more problems for Teddy.”

TECHNIQUES: T – E – A – M

Manage through to resolution

- May require additional meetings with appropriate charting & documentation
- Your malpractice carrier can guide you in determining fair reparation, if appropriate

TIMING: Proactive vs. Reactive

- Disclosure needs to be timely – delay magnifies problems

- Don't wait for all the “facts”

“Here is what we know now and we'll keep you informed as we learn more”

- Don't wait for a complaint

Who should be present?

- Consider who:
 - Has the most information
 - Has the best relationship with the client
 - Is an effective communicator with appreciation for openness
 - Is emotionally able to handle the conversation

What You Can Say

“I’m very sorry this happened.”

*“I understand you feel shocked and even
angry.”*

*“We’ve taken steps to make sure this never
happens again.”*

What do you tell a client if there has been an unfortunate outcome or adverse event?

- Communication skills-gather as much info as possible before you call owner but call as soon as possible (no negligence here)
- What happened
- What happens next(Recommend what is in the best interest of the animal)

What do you tell a client if there has been an unfortunate outcome or adverse event?

- Recommend necropsy if cause of death is unknown
- Be professional and express empathy
- Do you charge?

Claim Reporting and Management

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Most Common Types of SA Complaints

- Miscommunication (informed consent)
- Medication complications
- Sx/Anesthetic Complications
- Dentals
- Thermal Burns
- Mis Dx (foreign body, metabolic disease)
- Lack of Referral
- Bandage/Cast complications

Surgery Without Consent Misidentification

- Claim example

Surgery Related Complaints

- Surgery complications
 - damage to other tissues
 - urethral tears
 - nicked bladder
 - remove wrong structure
 - i.e. kidney, prostate gland
- Hemorrhage
 - suture material
 - size
 - knots
 - pattern
- OHE complications
- Cryptorchid Castrations
- Consent
 - explain exactly
- Dehiscence
 - post-operation care
 - suture
 - e-collars
- Orthopedic
 - bandage/cast complications
 - complications
 - undesirable outcomes
 - Infection
 - hardware failure
 - non-unions

Importance of Post Op Radiographs

Claim example

Drug Errors

- **Human error or communication breakdown**
- **Overdose – decimal point often moved one space.**
- **Labels typed wrong**
- **Drug mix-up- azathioprine called into pharmacy instead of Azithromycin**
- **Owners instructed to get Zyrtec OTC and owner got Zyrtec D**
- **Methimazole to dog instead of metronidazole**
- **Insulin syringes**

NSAID Claims

- Most common class of drugs we see claims related to:
- No washout period between switching NSAIDs and/or steroids
- GI ulcers and gastric perforations in dogs
- Renal failure in cats

NSAIDs

- What is considered SOC?
 - Labwork
 - Owner Consent!
 - Client information handout
 - Verbal discussion of risks vs. benefits
 - Discuss extra label use
 - Signed consent form
 - Documentation
-

Incorrect Drug

- KCl used instead of saline to reconstitute powdered formed drugs
- Caution with similar looking bottles
- Know what you are giving!

Dental Claim

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Anesthesia Related Claims

- Many records with lack of documentation of anesthetic drugs, dosages, route of admin, monitoring techniques, consent forms
- 4.6% of all claims 2005-2010
- Brachycephalics
- Anesthetic errors
- Inherent risk may include:
 - tracheal tears (cats)??
 - Death (immediate post op period is high risk)
 - Aspiration
- Thermal burns

Thermal burn

Happens with:

- electric heating pad
- Rice socks
- Snuggle safe
- Hot water bottles/gloves
- Any heating devise

Thermal Injury–Outcome

- Thermal support is common. However, thermal injuries are difficult to defend.

Thermal Injury–Key Take Aways

- There may be individual susceptibility to external heat source
- Types of heat support
- Maintenance of heat support devices.
- Well-perfused skin is relatively protected against injury from heating devices. In hypothermic patients the blood is directed away from the skin to vital organs. Therefore the skin may be more susceptible to thermal injury.

Anesthetic Complications

- Sudden Death
 - Cardiac/Respiratory Arrest **RECORDS!**
- Brachycephalic Syndrome
 - Sudden Death in peri-operative period
- Tracheal Tears
 - Most common in cats
- Anesthetic Errors
 - Closed pop-off valve
 - overdose
- Thermal burns

Making recommendations

- REFER 24 hour care for critical cases
- Referral to specialists
 - Duty to Refer- if outside your level of competence
 - Orthopedic claims

Human Injury

- 4% of claims related to human injury
- Large payouts
- Bites from dogs and cats #1

Avoiding Human/Patient Injuries

- Restraint
- SA hospital environment
 - below SOC to allow owners to restrain patients
- Jury/Judges historically not sympathetic to DVMs involved in human injury cases

How To Prevent Claims

- Practice Good Medicine
- Enhanced Communication Skills
- Good Record Keeping
- Keep People Out of Harm's Way