



Don't Be Dr A Avoiding Malpractice & Board Complaints

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Items to be Covered

- Malpractice & Board complaints
- Standard of Care
- Claim Reporting & Management
- Claim Review

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Professional Liability 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 non-veterinary hospital employees

If you work for someone else, secure your own policy

- If you do volunteer work outside of practice
- A claim arises after you have left a practice
- The PLIT–sponsored Professional Liability Policy protects you anywhere that you can legally practice.

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- Policy outlines the coverages
- Must be negligent for policy to pay damages
 - Not mortality insurance
 - Not goodwill insurance
- Court cost & Defense costs are paid in addition to policy limits
- Network of experienced attorneys
- Consent to settle clause

Important Point

- Individual premiums never go up no matter how many claims submitted
- Coverage is occurrence driven



Veterinary License Defense

- Responds to complains against your license
- A policy that is for a regulatory action
- Provides legal expenses including fees associated with preparing a response letter, conferencing with licensing agency, and attending hearings.

*This is an endorsement to the PLIT-sponsored professional liability policy

Veterinary License Defense

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

Malpractice

- What is malpractice?
- Do you need malpractice insurance?
- Can you avoid claims of malpractice?

Malpractice/Board Complaints

- Miscommunication
- Adverse events & unfortunate outcomes
- Negligence
- Human injury
- Economic loss
- Collection
- Client personality

Unintended adverse outcomes

- Unreasonable expectations (post op infection)
- Biological variability (individual sensitivity)
- Judgments that prove wrong yet within standard of care (GI work up, fb vs metabolic disease)
- Systems, procedures or individual errors that fall below the standard of care (sx sponge) or not

THE ULTIMATE QUESTION

Was the standard of care breached?

Standard of Care:

Did the defendant veterinarian do what a reasonable and prudent veterinarian would do under the same or similar circumstances?

PLIT's Interest in Communication

- Proven connection to Complaints
- Better communication skills
 - Reduced claims=reduced defense costs, reduced claim handling costs, stable premiums
- Estimated that 60% of all claims are related to some breakdown in communications
- What can you do?

Communicate Effectively

- Clients
- Staff
- Colleagues



Malpractice due to Miscommunication

- Lack of consent
- Failure to inform of risks, prognosis, or options
- Failure to inform of costs
- Failure to give complete written and verbal discharge instructions
- Failure to listen or to be available

Give Estimates

- Update estimates during treatment



Informed Owner's Consent

- Discuss risks vs. benefits
- Give client information handouts
- Verbally explain written instructions
- Have clients sign forms
- Ask “What questions do you have?” or “Do you have any concerns?”
- Update consent during treatment

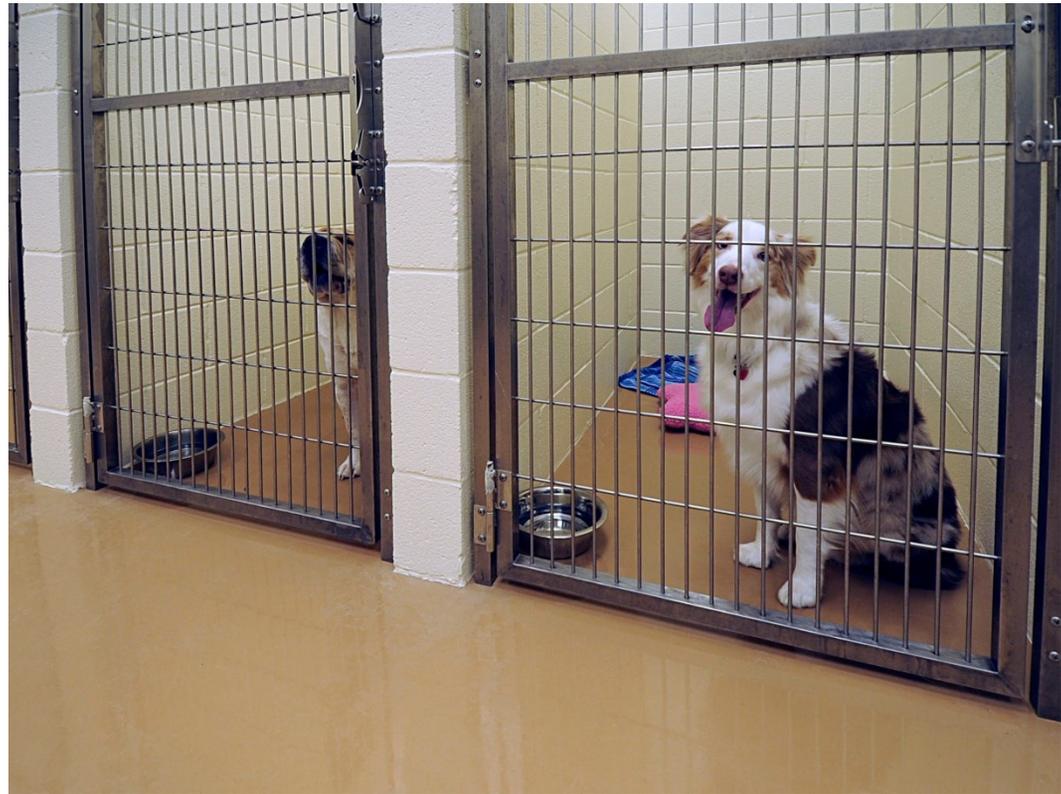
History

- Obtain pertinent records
- Ask what medications has been given



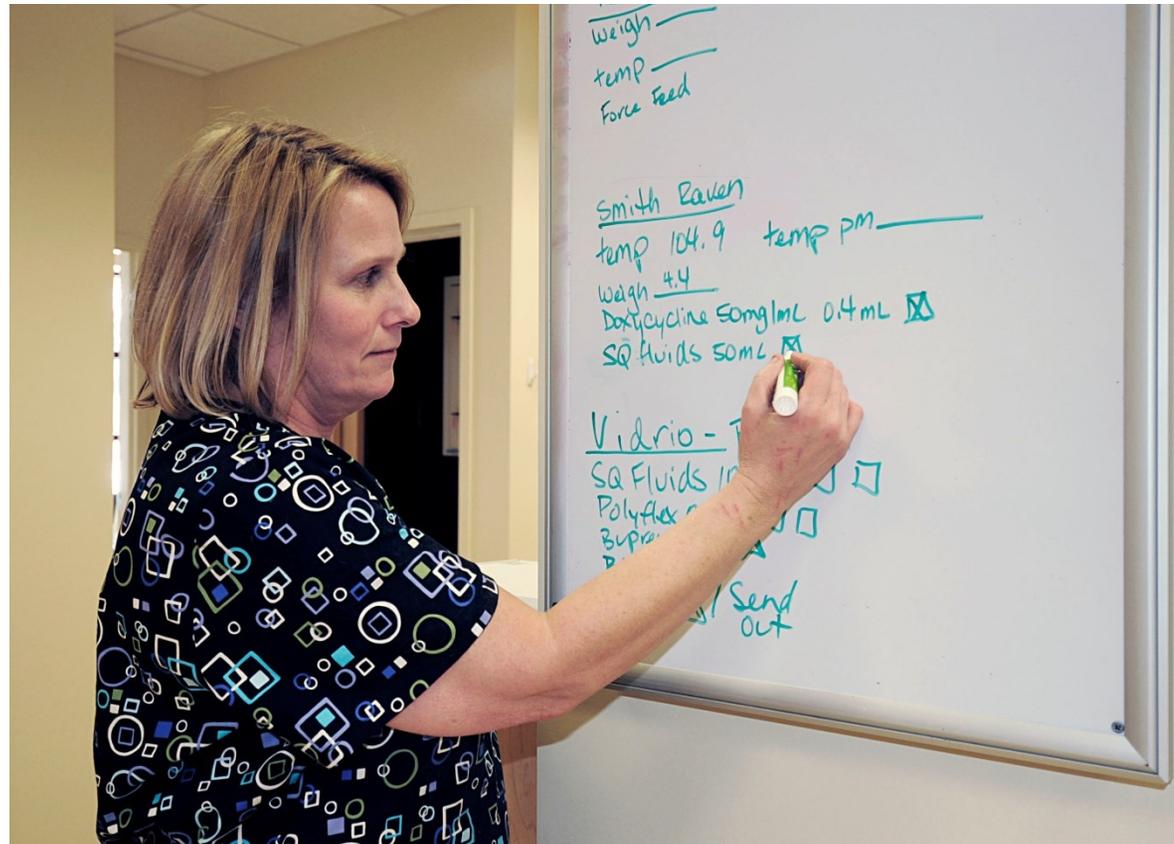
Identify Animals

- Note the procedure that the animal is admitted for:



Keep Good Medical Records

- Document, Document, Document



Medical Records Must be Accurate and Legible

- Rule of Thumb followed by licensing boards, clients and attorneys – IF IT WAS NOT RECORDED IN THE RECORD, THEN IT WAS NOT PERFORMED
- Written records performed at time of dx/tx easier to prove than trying to prove a fact my memory alone

Records

- Estimates
- Provides dxs/txs and PROGNOSIS
- Provides updates, alternative txs
- Provides evidence of client's acceptance or refusal of txs
- Note phone conversations
- All records subject to subpoena – all communications, billing, clinical care

Necropsy

- May be your only defense
- Always attempt consent for a necropsy
- Best if performed by a reputable, third party lab

Dosage Errors

- Human error
- Overdose – decimal point moved
- Insulin syringes: U-40 vs U-100
- Drug mix-up: azithromycin called in – pharmacy dispensed azathioprine
- Zyrtec OTC and owner got Zyrtec D
 - Zyrtec D contains pseudoephedrine

Dosage errors

- Human error
- Overdose-decimal point moved
- Insulin syringes
- Drug mix-up (Azathioprine instead of Azithromycin)
- 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

OPTIONAL ENDORSEMENTS

- – Excess Coverage
- – Professional Extension Endorsement (Animal Bailee)
- – Semen and Embryo Transfer Services
- – Student Liability
- – Veterinary License Defense (VLD) Coverage

Animal Bailee Insurance

- Provides coverage for loss or damage to animals are in the custody of the insured.
 - This coverage insures against
 - Direct physical damage from any external cause, including death or injury to animal, except as excluded

Other Business Insurance

- – Workers' Compensation
- – Property
- – General Liability
- – Employment Practices Liability
- – Commercial Auto
- – Umbrella Liability
- – Flood
- – Data Breach/Cyber Liability
- – ERISA bond
- – Crime
- – Fiduciary Liability

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Safety and Loss Control Resources

- To reduce the potential for claims through the implementation of risk management programs
 - On site inspections
 - Safety manual
 - Newsletter – Safety Bulletins
 - Safety posters
 - Website training courses

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- 2012: 2,875 malpractice claims
 - 21% standard of care not met – negotiated settlement
 - 95 went to trial
 - 81 Defense Verdicts
 - 14 Plaintiff Verdicts

What Else Can You Do?

- Practice good medicine
- Get informed consent
- Keep good records-document everything including diagnostics and treatments declined
- Continue your education
- Be a colleague, not a competitor

Most Common Companion Animal Claims

Miscommunication

Surgical Complications

Anesthetic Complications

Dental Complications

Thermal Burns

Bandage/Cast complications

Ureter and Urethral injuries

Medication complications (NSAIDS)

Claim Examples



Heating pad burn

Happens with:

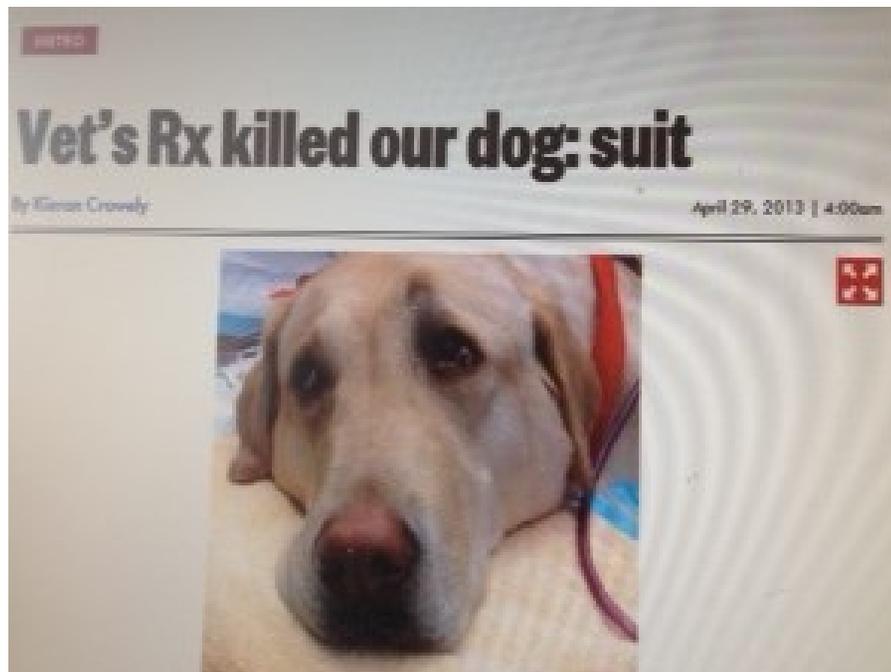
- electric heating pad
- Rice socks
- Snuggle safe
- Hot water bottles/gloves
- All kinds

Points to Remember

- Any contact surface can get hotter than the setting so it's important to verify the temp of your heat source.
- Fluid (ie: water/blood) is an excellent heat sink so 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 is very susceptible to thermal injury - especially in cold patients.

NSAID Toxicity

- No washout when switching NSAIDs
- Giving steroid and NSAID at same time
- Cats developing renal failure
 - Failed to inform owners of Extra-label drug use



License Defense Example

- Dr A graduated 6 months ago and is working ER clinic overnight shift. Dog hospitalized with multiple problems (DKA and pancreatitis). Dr A checks potassium levels throughout night and adjusts therapy as needed. HCT levels fell from time dog admitted to 3 am. Dog died.
- Licensing Board disciplined Dr. A

License Defense Example

- Licensing Board finds
 - Dr. A never charted an exam of the patient after started working despite K readings. “If it’s not charted, it did not happen.”
 - K levels too dramatic changes to be trusted.
 - Given drop in HCT levels Dr. A should have assessed possible blood loss.
 - Given continued deterioration of the dog, Dr. A should have kept owner informed and not just cold called owner with news of death in morning

Owner's Injury

- Human injury claims represent 2% of all claims and 4.8 % of the total dollars paid

HUMAN INJURY

- 2% of claims from 2005-2010 but some of the costliest
- Restraint-quite common for LA/Equine
- On the small animal side- don't have owner assist.
- Bites from dogs and cats #1
- Kicks from horses/injuries from large animals

Points to Remember

- Always recommend what is in the best interest of the animal
- •Document if owner declines your recommendations
- •Even if owner states financial concerns, still provide the recommendations and options, document owner declined, then work with owner on plan
- •Post-op 24 hour care if critical case or anesthetic complications
- •Referral to specialists
- •Duty to Refer- if outside your level of competence
- •Orthopedic claims

Preventing Claims-A Few Tips!

- Sound Medical Practice
- Superior Communication Skills
- Good Record Keeping
- Keep People Out of Harm's Way
- Get owner's consent
- Give estimates
- Write out all prescriptions

