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Veterinarian Inspired Coverage Protecting you through it all

I made a medical error (or am being accused of one). Now what?



The AVMA Trust's PLIT program receives claims stemming from allegations of malpractice, state licensing board complaints, and animal bailee incidents (accidental injury to or loss of patients in your care, custody, or control, but unrelated to treatment). While this article will specifically focus on what to do in the wake of a medical or surgical error, keep in mind that the same steps to file a potential or actual claim should be followed if a client alleges malpractice, files a board complaint against your veterinary license, or if an animal is injured or dies in your care unrelated to treatment.

Before exploring how to handle medical errors, an important distinction must be noted: a claim can be filed for an *alleged* medical error as well as an *actual* one.

- An **actual medical error** is when a veterinarian (or a vet tech or assistant employed by the practice) makes a known medical error. This mistake may be realized at the moment of error or later when complications arise. A known or

proven error by a vet tech or other non-veterinarian team member would be addressed under the professional liability policy of the practice owner, even if the team member was working under the supervision of another veterinarian at the time of the error.

- **Alleged medical errors** are when a client is upset with the care their animal has received and alleges that the veterinarian (or a vet tech or assistant) made a mistake or has not met the standard of care (SOC). However, upon review of the case or claim, it is determined no error was made, the SOC was met, and any adverse event or complication was related to an inherent risk.

As a veterinarian, your goal is to provide help and healing to your patients. Realizing that a mistake may have resulted in an injury to a patient can be extremely upsetting. It's important to stay calm, think rationally, and always do what's in the best interest of the patient.

I—or a member of my team—made an actual medical error.

If the mistake is realized at the moment of error (such as transecting a ureter during a spay, or administering an injection of the incorrect medication), do the following:

1. **Tend to the patient first.** If correcting the error or minimizing damage is in your power, do so immediately. If that is not possible, stabilize the patient to the best of your ability and contact an emergency/specialty hospital that can accept the patient as an emergency referral.
2. **Collect yourself before communicating with the client.** While time is of the essence, taking a moment to calm yourself prior to interacting with the client is essential
3. **Explain what happened in layman's terms and be honest**. Discuss the error with the client as soon as possible and be sure to do so in language the client can understand. Speak plainly and assure the client that steps are being taken to remedy the error. If the client becomes agitated or emotional, remain as calm as possible and stick with the facts.
4. **Do not agree to or pay for any subsequent veterinary fees if patient is referred.** Doing so will complicate the insurance carrier's attempts for settlement and may affect your coverage.
5. **Never assure the client that your malpractice coverage will compensate them or cover the incident.** While financial coverage of the incident is likely,

never make assurances or promises to the client. Instead, assure them that you have reported the error to your insurance carrier and explain that you will provide them with contact information for the representative handling the claim ASAP.

6. **Report the error to the AVMA Trust's PLIT program ASAP.** Contact AVMA PLIT as soon as possible to report a claim if a medical error has occurred. Even if the client seems calm and reasonable when you explain the mistake to them, or if the error appears to have been remedied without a referral, be sure to report the incident. This step allows the insurance carrier to explore the potential claim and ensure that insurance coverage–if needed–occurs in a timely fashion. **Do not include information on contacting AVMA PLIT or the insurance carrier in the patient's medical records.** And remember, if a non-veterinary team member made the error, it will be addressed under the practice owner's malpractice policy.
7. **If the client files or threatens to file a board complaint when a medical error has occurred, again, contact the AVMA Trust's PLIT program immediately and file a claim.** Complaints against veterinarians' licenses have risen dramatically in recent years. If you receive a board complaint *after* you have already filed a claim and been contacted by a claim professional from the insurance company, submit a copy of the complaint to your claim professional immediately in order to be assigned legal representation once coverage is confirmed.

If the mistake is realized later when complications arise or upon reexamination (such as a sponge left in the abdomen, or an incorrect dose of medication dispensed):

1. **Hear out the client and take careful note of what they're noticing in their animal.** While this step might sound obvious, doing so without coming off as defensive or skeptical can be challenging if you aren't in the right headspace. Understand that if the client sounds accusatory or angry, they're coming from a place of concern. Assure them that you will do a thorough examination of the patient and get to the bottom of things.
2. **Upon discovering the error, follow steps 1-7 listed in the above section.** When contacting the AVMA Trust and the insurance carrier, be sure to include anything that occurred between the treatment or procedure and the patient presenting at the clinic once again. This information includes how the patient seemed at discharge, any take-home instructions given to the client, and any

emails, phone calls, or other contact between the clinic and the client before the patient's return to the clinic.

I—or a member of my team—is being accused of making a medical error.

Being accused of a medical mistake you didn't commit can be just as frustrating and upsetting as actually making an error. In the event a client or a client's attorney accuses you of malpractice, take the following steps:

1. **Get in touch with the AVMA Trust's PLIT program immediately.** Even if it appears that the client is making an empty threat and no medical or surgical error was made, contact AVMA PLIT to report a claim as soon as possible. Provide medical records, a typed summary of the case, as well as any letters or emails received from the client and/or their attorney. If a non-veterinary team member is accused of making the error, it will be addressed under the practice owner's malpractice policy.
2. **Stop communication with the client.** If the client is represented by an attorney, becomes aggressive or threatening, or demands compensation, calmly advise them that you cannot communicate with them anymore and will be contacting your insurance carrier. Once you submit a claim, if the client continues to contact you, you can provide the client with the contact information for the insurance claims representative handling the case. Let the insurance carrier take things from there.

Making a medical error or being accused of one is upsetting and stressful. By following the recommendations above, you can take steps to ensure the most positive outcome possible for you, your clinic, the patient, and the client.