

# professional liability

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## Patient Injuries during Boarding and Transportation

Whether it is during treatment, boarding, or transportation, patients can be at risk of unexpected injuries. While veterinary teams work diligently to minimize risks (for example, by maintaining anesthesia protocols to prevent injury or death in the peri-anesthetic period, or kenneling policies that minimize the chances of escapes and injuries while a patient is in the care of the clinic), patient injuries and deaths can occur.

What many veterinary teams may not know is that incidents that occur outside of treatment are not covered by professional liability (malpractice) coverage. Instead, injuries or losses that occur while a patient is in the practice's care, custody, or control that aren't related to treatment fall instead under the umbrella of animal bailee coverage (which is an endorsement to professional liability coverage). Understanding the difference between what is covered by malpractice and what is covered by animal bailee is crucial to ensuring that a practice is adequately protected.



## Reducing the Risk of Injuries and Losses Unrelated to Treatment

While the practice owner is the one who would be held responsible for patient injuries and losses unrelated to treatment, it is up to the entire veterinary team to take the steps necessary to reduce risks to patients before, during, and after treatment.

**General safety protocols:** All team members should adhere to the practice's safety protocols for handling patients during peri-treatment periods, boarding, and transportation. These protocols should be reviewed periodically with staff and when onboarding new employees.

**For boarding:** Thoroughly review each patients' health history prior to admittance and create a schedule for any medication administrations or other expected interventions. Before placing a patient in an enclosure, check for hazards that may cause injury or escape.

**For transportation:** Ensure that the vehicle used is routinely serviced and in good working order. Before patients are loaded and unloaded, check the trailer inside and outside for hazards. Confirm that the trailer hook-up or mobile unit is secure and ensure that patients are appropriately secured in kennels and trailers. After patients have been loaded, verify that all doors are securely latched.

## Closed Claims

### Dog Fractures Jaw Waiting for Discharge

Dr. A was presented with a dog for vomiting. After performing an exam and taking radiographs, Dr. A provided symptomatic treatment. During discharge preparations, Dr. A noted blood on the dog's mouth and suspected that it had bitten its tongue while chewing on the cage. Dr. A attempted to perform an oral exam, but the dog would not permit it. Dr. A explained the situation to the owner and instructed them to return with the dog if it experienced any mouth issues.

### Who needs animal bailee coverage?

Only practice owners need to carry animal bailee coverage. If you are a practice owner and your practice hospitalizes, boards, or transports patients, animal bailee coverage is essential. Examples of injuries or losses that would be covered by an animal bailee policy include those resulting from escapes, animal attacks, fire, theft, and catastrophic weather, as well as injuries that occur in kennels, cages, runs, stalls, paddocks, or pastures.

If your practice has more than one owner, only one of the owners needs to have the animal bailee or embryo/seminal endorsement coverage.\* However, if your practice has more than one location, you will need separate animal bailee coverage for each location.

Mobile practitioners who do not keep or transport patients in their care, custody, or control do not need animal bailee coverage.

The dog's condition declined, and the owner and patient returned. After an examination, Dr. A diagnosed the dog with a fractured mandible and provided a referral. The dog's treatment at the specialty clinic included surgery and the extraction of one tooth, and wires were placed in the dog's jaw for nine weeks. After the dog recovered, the owner demanded \$15,000 for costs incurred at the specialist and threatened a lawsuit. Dr. A reported the claim to the insurance carrier, who offered \$9,000 to settle the case. Though the owner initially rejected the offer, the matter was eventually settled for \$10,000, which included the cost of treating the dog's broken mandible and related expenses.

\*If your practice performs artificial insemination and stores and/or transports semen and/or embryos in liquid nitrogen tanks, consider adding the embryo/seminal endorsement, which covers losses while in storage or transit by the insured veterinarian (not third-party transit/UPS/FedEx). Loss of semen or embryos while in storage or transit is an exclusion to the malpractice policy and requires the professional extension.

## Bee Stings Veterinary Technician on Walk, Dog Escapes

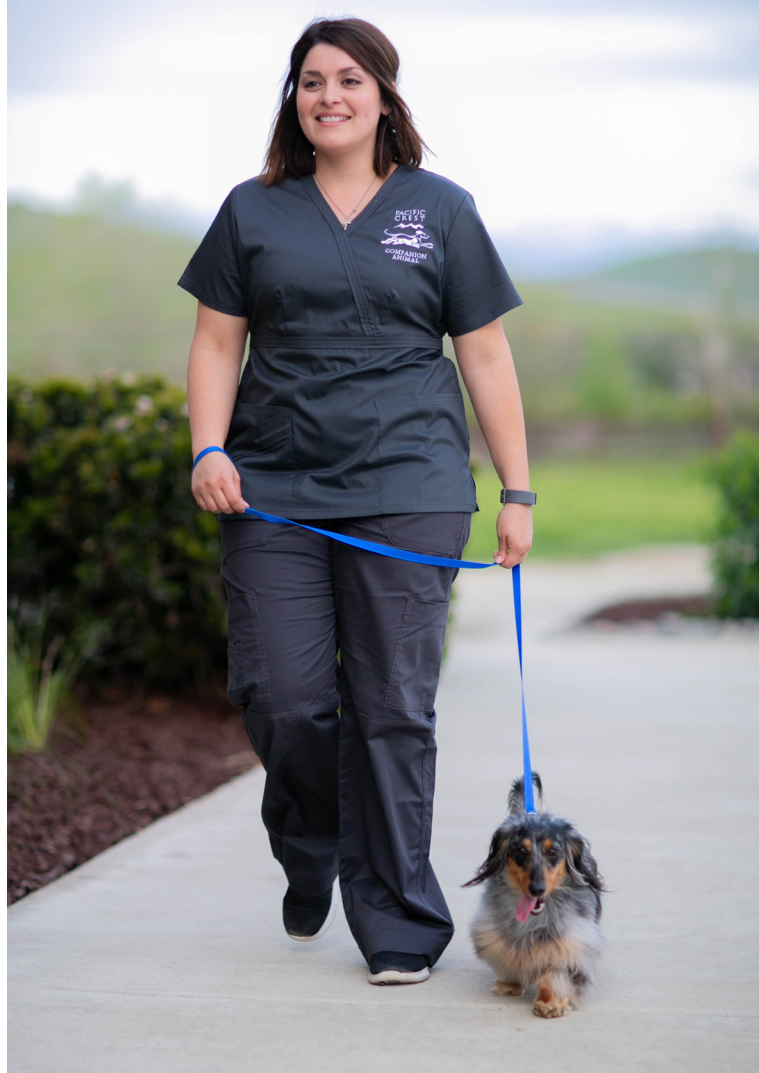
Dr. B's practice was boarding a dog for a client. While on a walk, a veterinary technician was stung by a bee and lost control of the leash, allowing the dog to escape. When the practice's efforts to recover the dog were unsuccessful, they hired a tracking service, and Dr. B reported the loss of the animal to the insurance carrier. Although the owner also searched for the dog, it was never recovered.

Eventually, the owner hired an attorney and demanded \$20,000 from Dr. B and the clinic, citing \$4,000 for the replacement value of the dog and \$16,000 for wages lost while the owner searched for the dog. After a review, Dr. B's carrier offered \$3,400 for the value of the dog and no reimbursement for lost wages, since the owner admitted during the deposition that all searches occurred outside of working hours. The owner rejected this offer, and the case proceeded to a jury trial, where the jury decided in favor of Dr. B. Dr. B's insurance carrier paid approximately \$20,000 in legal fees, which was covered under Dr. B's animal bailee endorsement.

## Boarded Show Dog Escapes; Owner Attorney Files Suit and Litigates for Years

While Dr. C's practice was boarding a show dog, a staff member was cleaning the kennel area with a bleach solution and propped the back door open for air circulation. When the dog began crying, a technician believed that the dog's foot had become stuck. When the technician unlocked the cage to assist the dog, it bolted and ran out the open door. Initial attempts to recover the dog were unsuccessful but 11 days later, the dog was located and returned to the owner in good health. The owner appeared satisfied with the outcome.

Three years later, however, the owner (an attorney) filed a complaint against Dr. C's veterinary license with the state board and filed a civil suit against Dr. C. The lawsuit contained counts for breach of contract, breach of bailment, gross negligence, and



unintentional infliction of emotional distress, and the owner demanded \$30,000. Dr. C's insurance carrier appointed defense counsel for both the civil case and the board complaint because Dr. C held both animal bailee and veterinary license defense coverage.

While the license complaint was dismissed by the state board, the civil case went on for years. Eventually, the case escalated to a bench trial. The court ultimately ruled in favor of the owner and awarded a judgment of \$1,300. Dr. C's insurance carrier paid that amount, but the owner refused to file an Order of Satisfaction (a legal document acknowledging that the judgment had been received) and argued for additional money. Dr. C's legal counsel was forced to file a motion to close the case, incurring additional legal fees. In total, the insurance carrier paid over \$35,000 in legal fees for Dr. C, and six years after the dog escaped, the case was finally closed.

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