

professional liability

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A Closer Look at Professional Liability & License Defense Trends

As times change and current events shape or re-shape the way veterinarians and staff interact with their clients, the AVMA Trust closely monitors professional liability (PL) and veterinary license defense (VLD) statistics to identify any significant trends. This newsletter will look at 2019 PL and VLD numbers and examine some of the emerging trends from 2020. The closed claims illustrate how perceived value of animals continues to change, resulting in higher demands being made.

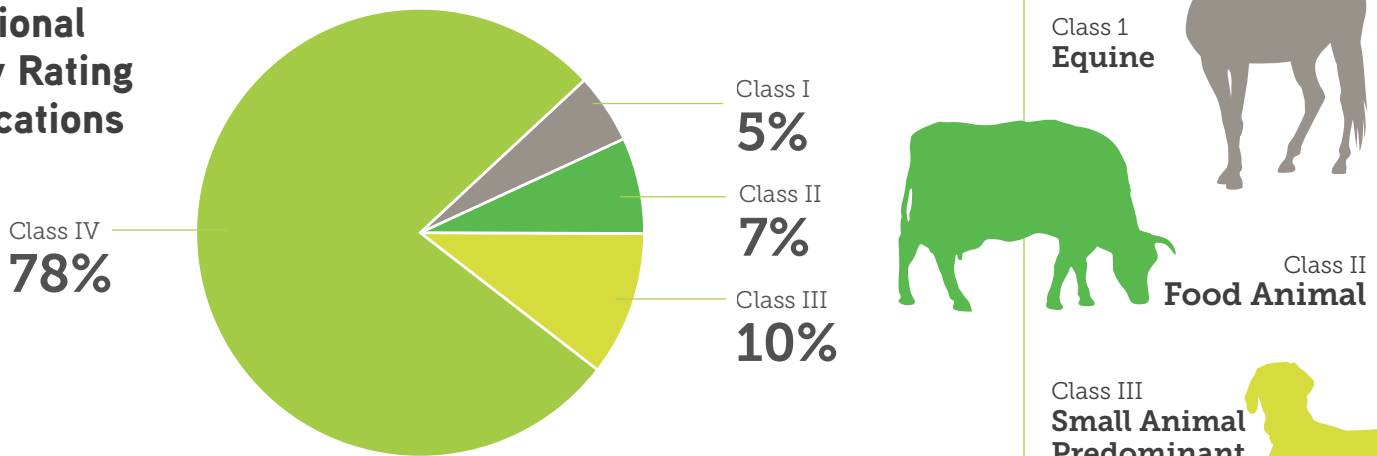


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Claim Trends by the Numbers

Professional Liability Rating Classifications



Approximately
4,000 claims
reviewed



8% of the 4,000 claims represented litigated claims that were concluded in 2019. The percentages on the right show how those litigated claims were split by class.

Class I 10%	Class II 13%
Class III 9%	Class IV 68%

2019 Litigated Outcomes

36%

Dismissed,
Motion to Dismiss, or
Motion for Summary Judgment

22%

Voluntarily
Dismissed
by Plaintiff

26%

Settled
Pretrial

14%

Defense
Verdict

2%

Plaintiff
Verdict

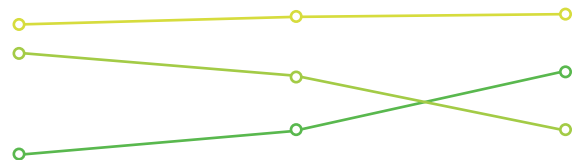
Veterinary License Defense

VLD claims continue to increase year over year.

With the ease of online submission, many states are reporting more and more claims, leading to a slower process for resolution due to a back log of complaints.

Statistics as of April 1, 2020

Report Year	2017	2018	2019
Number of claims	908	956	982
Closed with payment	750	597	241
Number of claims open	87	243	627



2020 COVID Trends

After COVID hit in the spring, the AVMA Trust program saw a slight dip in claims reported for a few months, most likely related to many practices that temporarily closed or only did essential procedures/reduced case load. **Once practices resumed with curbside care, claims related to this change in practice began to emerge.**

For example, the number of claims related to communication breakdowns increased:



WRONG
medication
dispensed



WRONG
animal
treated



WRONG
procedure
performed

Claims related to issues around informed consent also increased.



Closed Claims

\$80,000 Payout for Surgical Sponge

A two-year-old French Bulldog that was purchased for breeding presented to Dr. A for a cesarean section. During the procedure, a surgical sponge was unknowingly left in the dog's abdomen. Four months later, the dog presented back at Dr. A's clinic showing signs of infection. An abdominal radiograph was suggestive of a mass and an exploratory surgery was performed. Dr. A. discovered the sponge but, due to extensive adhesions, the dog had to have an OHE. The dog's owner demanded \$556,000 to cover the costs of care, loss of future litters, and emotional distress. Dr. A reported the claim to the PLIT program insurance carrier. After an internal review of the case, it was determined that the SOC was not met when Dr. A left the surgical sponge in the abdomen during the C-section. With Dr. A's consent, the insurance carrier attempted to settle the claim for \$13,000, which included the medical bills and purchase price of the dog. The dog's owner refused and filed a suit against Dr. A. Attempts to settle the matter in mediation failed and, following a bench trial, the dog's owner was awarded almost \$91,000 in spite of the law in this state being clear on damages (the value of damages before and after injury plus the medical expenses for treatment). The judge appears to have included the purchase price, stud fee, approximately \$4,200 medical bills, deposits lost on four puppies, and \$64,500 for three future litters at \$21,800 each. In lieu of filing an appeal in this challenging venue, the insurance carrier and counsel negotiated a reduced settlement of \$80,000 with the plaintiff's attorney.



Dosing Error Leads to Trial and \$3,000 in Fees

An 11-year-old cat was presented for a resistant skin infection to Dr. B, the owner of the practice. Dr. B elected to treat the patient with meropenem injections. Vet Tech C, an employee of Dr. B, prepared the medication according to Dr. B's prescription, which required reconstituting the powdered antibiotic into an injectable form for the client to administer subcutaneously at home daily. Vet Tech C accidentally miscalculated the amount of saline to use for the reconstitution, which resulted in a concentrated formulation. After several days of home treatment, the cat's condition declined and the client presented the cat to an ER clinic. Renal failure was diagnosed, and despite treatment, the patient died. Dr. B submitted the claim to their insurance carrier and agreed that a drug error had occurred, resulting in the death of the cat. Dr. B consented to settle, and the insurance company negotiated a settlement in the amount of \$3,000 for the medication cost and emergency care.

Dr. D Accidentally Closes Urethrostomy Site

Dr. D was presented with a new patient for a dental and laceration repair. Due to COVID, the exam on the dog was performed while the client waited in the car. Over the phone, Dr. D described and attempted to confirm the location of the laceration that the dog's owner had requested be repaired. Based on Dr. D's description, the owner consented to the repair. Following completion of the dental, Dr. D repaired what appeared to be a pre-scrotal, non-healing wound and sent the dog home. A few days later, the owner called the clinic complaining that the dog could not urinate and asked if Dr. D had closed the dog's urethrostomy site instead of the abdominal laceration. Dr. D had not been made aware that the dog had a urethrostomy and had, in fact repaired that site instead. The claimant filed a malpractice claim, the insurance carrier determined the insured was below the standard of care and settled the claim for the subsequent medical costs in the amount of \$5,000.

For a full list of coverages available through the AVMA Trust, visit avmaplit.com and avmalife.org.

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