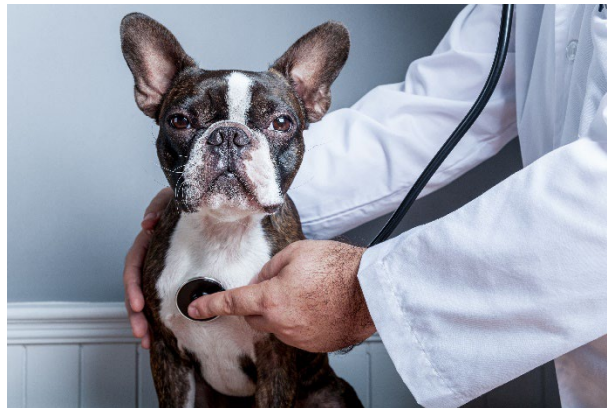


Licensure and Malpractice for Veterinarians



Presented by J.V. Anderton
To the MVMA's 2025 Great Lakes Veterinary Conference

June 23, 2025

Licensure Issues

- Veterinary Medicine is part of the Public Health Code of Michigan (Act 368 of 1978; MCL 333.18801 *et. seq.*)
- “Veterinarian” and “Veterinary Technician” are the defined terms of the Code. Both are required to have licenses (MCL 333.18811) and have continuing education requirements (MCL 333.18813).
- Other provisions of the Veterinary Medicine part of the Code:
 - Consultation with an owner regarding marihuana or industrial hemp.
 - Exemption from liability for reporting abandoned, neglected or abused animal.
 - Right to dispose of abandoned animal.

Licensure Issues (Slide 2)

- In addition to the code, the Michigan Administrative Code has rules relating to both Veterinary Medicine (R 338.4901 *et. seq.*) and Veterinary Technicians (R 338.4971 *et. seq.*)
- The rules of the MAC deal primarily with education, licensure, license renewal and continuing education.
- There are additional provisions under the rules for Veterinary Medicine dealing with telehealth services (effective in 2023), supervision and delegation, and medical record retention.

Licensure Issues (Slide 3)

- Bureau of Professional Licensing under the Department of Licensing and Regulatory Affairs (LARA), is responsible for licensing.
- Part of being licensed is to allow for administrative actions and enforcement proceedings for failure to comply with the Code and the Rules.

Civil Legal Actions

- In addition to administrative enforcement actions, the workers in veterinary medicine (as either the vet or the vet tech) can be subject to civil liability under various legal theories, including:
 - Negligence (not malpractice)
 - Breach of contract
 - Bailment (in the context of boarding animals and an animal is hurt)
 - Malpractice

Malpractice

- Veterinarian malpractice is closely linked to medical malpractice, with the exception that the client is not the patient.
- “Generally, to allege a claim of professional malpractice, a plaintiff must claim: ‘(1) the existence of a professional relationship, (2) negligence in the performance of the duties within that relationship, (3) proximate cause, and (4) the fact and extent of the client’s injury.’ *O’Dell v. Eascor Animal Hospital* (2022), quoting *Estate of Voutsaras v Bender*, 326 Mich App 667 (2019).

Malpractice (Slide 2)

- While all of the elements of malpractice must be proven, the usual controversy and defenses arise in elements 2, 3, and 4. In most circumstances, if services are performed in exchange for money, the first element will not be that controversial.
- As to element 2, “negligence in the performance of the duties within that relationship,” the question will be if the veterinarian satisfied the applicable standard of care. Generally, the plaintiff will need to find an expert witness to testify as to what was done and how it differed from what should have been done.

Malpractice (Slide 3)

- As part of the negligence standard, Michigan has adopted something called comparative negligence, so that if both the vet and the animal owner act (or fail to act) in a manner that damages the animal, any liability of the vet must be reduced by the percentage of damage caused by the owner. MCL 600.2959 and 600.6306a.
- The third element of “proximate cause” requires that the negligence is what actually caused the injury. Example: Surgery on a paw, owner tries to inspect but pet escapes and runs into street and gets run over. Hard to argue what caused the death was the surgery, not the car.

Malpractice (Slide 4)

- The fourth element requires the plaintiff to prove “the fact and extent of the client’s injury.” This is a fact question for a jury.
- Michigan does not allow recovery for “emotional damages in connection with the injury or death of a pet.” *Levay v Bay Animal Hospital* (2023). This is very important as emotional damages can often be as large or larger (from a monetary standpoint) as physical damages.
- Statute of Limitations in Michigan is 2 years. MCL 600.2912(1).

Thank You!



- Any questions, please contact me:
 - P: 517.371.8282
 - E: janderton@fosterswift.com

Presentation Terms of Use

Foster Swift Collins & Smith, PC presentations are intended for our clients and friends. This presentation highlights specific areas of the law. This communication is not legal advice. The information provided is current as of the date of the presentation. Those viewing the presentation should consult an attorney to determine how the information applies to any specific situation.

Copyright © 2025 Foster Swift Collins & Smith, PC