Professional risks facing veterinary nurses (and how to avoid them)

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To cite this article: Michael Stanford FRCVS (2015) Professional risks facing veterinary nurses (and how to avoid them), Veterinary Nursing Journal, 30:8, 226-227, DOI: 10.1080/17415349.2015.1053423

To link to this article: http://dx.doi.org/10.1080/17415349.2015.1053423

Published online: 15 Jul 2015.
Hot topic 6
Professional risks facing veterinary nurses (and how to avoid them)

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The main purpose of this article is to reassure Registered Veterinary Nurses (RVNs) that, although grievances directed against any individual are undoubtedly stressful, the vast majority are, in reality, either trivial, destined to go nowhere or entirely unfair. Nevertheless, complaints and claims are inevitable, so to ensure criticisms are kept to a minimum you should first know what risks face RVNs and then put protocols into place in your working life to minimise the threats.

RVNs face three basic risks as they carry out their professional duties: negligence claims, regulatory complaints and criminal charges. The author works for the professional indemnity insurer the Veterinary Defence Society (ubiquitously known as the VDS), which insures RVNs against all three risks and aims to provide common-sense advice on avoiding them in the first place, through their telephone advice line.

Negligence

Negligence claims are related to how RVNs carry out their clinical duties, rather than to their professional behaviour (misconduct). Nevertheless, there is a significant grey area between allegations of negligence and professional misconduct and the public certainly struggle to differentiate between the two, leading to some confusion and overlap.

Common negligence claims specifically involving RVNs are associated with thermal burns developing from the use of heat pads during anaesthesia, bandaging injuries related to alleged poor dressing placement, pets escaping from the practice and advice or medications provided during nurse clinics.

Any letter alleging ‘negligence’ tends to devastate the recipient – the word has gained a particular stigma for all health professionals. RVNs should be reassured that, although the term is used extensively by claimants, in reality the bar for successfully bringing a claim in professional negligence is set high. This reflects the fact that the legal system understands the well-recognised difficulties of working with biological systems and appreciates that different RVNs can employ entirely different approaches to the same problem, equally successfully.

Negligence claims are ultimately determined in the civil courts by a judge who will rely on expert evidence provided by an independent veterinary surgeon or RVN. The essential principle, relied upon by the Court in professional negligence is: ‘Did the veterinary nurse approach the case in a manner in accordance with a reasonable body of veterinary nurses?’ In other words, you, as an RVN, will be judged by what is considered a reasonable course of action by your peers, irrespective of the outcome of the case. If you follow standard recognised techniques used by a reasonable body of RVNs, it is our experience that it is unlikely you could ever be found negligent. Diligently carrying out your CPD commitment should ensure you remain up-to-date and your approach remains in line with a reasonable body of the profession.

Even if liability is accepted for a negligent act; for compensation to be due, the claimant still has to demonstrate a genuine financial loss. Damages for distress are not payable under UK law in respect of an animal, so, irrespective of the nature of the error, claimants are never eligible for a payment for stress or emotional damages. There is therefore no need to panic if you receive the regrettable rather common type of speculative claim, seeking £1,000 for distress damages associated with the loss of ‘Alf the hamster’, as the damages will not be payable even if you were found to have acted negligently.

Furthermore, negligence claims are not directed against an individual, but against a business. Even if an RVN, insured under the practice policy, is accused of a negligent act and the claimant is successful, it would ultimately be the business, or rather the insurer for the business, that would settle any claim for damages, not the individual nurse.

Negligence claims are unavoidable as, because RVNs are only human, nursing healthcare inevitably goes wrong on occasion and perhaps more significantly it is common for owners to allege negligence unfairly. This may be due to their own guilt in the outcome of a case, a misconception of the care a practice provided to their animal, or commonly a disingenuous attempt to avoid settling an account.

To reduce the risk of negligence claims it is important to stay up-to-date by carrying out at least the prerequisite quota of professional CPD (at present this is 45 hours over three years), which ensures that you remain competent and aware of the acceptable standards.
practiced by a reasonable body of veterinary nurses. A nurse able to demonstrate that they have informed, warned and gained consent from clients, preferably in writing, will ensure the swift dispatch of the majority of claims to the 'file-closed' section. Knowing when you need to ‘pass the buck’ of responsibility, usually to a veterinary surgeon, is also an important skill to learn.

The VDS dispatches a tri-annual newsletter to all members, as well as special periodic RVN editions, identifying risk areas for the profession to help you avoid the pitfalls that accompany the practice of an accountable profession.

If you are unfortunate enough to find yourself the subject of a negligence claim, the experience will ensure that you soon realise the best method of avoiding criticism is to keep good contemporaneous notes, the content of which can subsequently be used to defend your position. As many claims against RVNs are associated with post-operative care, it is important to provide all advice in writing to clients, as, perhaps understandably, they can be more interested in greeting their beloved pets than in listening to what they are being told about the importance of ‘lead exercise only’.

### Regulatory complaints

RCVS concerns are a new risk for RVNs and one of the ‘joys’ of becoming an accountable, recognised profession. First, be reassured that the possibility of finding yourself in front of a Disciplinary Hearing as a veterinary nurse is extremely low. Less than 1% of concerns against veterinary surgeons end up being determined in a front of a Disciplinary Tribunal and we would expect the same proportion for nurses. In other words, we have found that the majority of allegations of professional misconduct against veterinary nurses are not upheld or are felt to be at the minor end of the spectrum. Nevertheless, the possibility of an RCVS concern being raised is still quite significant, especially for RVN’s working in small animal practice, and it is important to understand how the system works.

The RCVS disciplinary process starts with a phone call or email from a case handler in the professional-conduct department. The email includes full details of the client’s grievance, bullet point(s) of potential areas of professional misconduct the RCVS has identified and a request for a full response within 14 working days. A concern raised by your Regulatory Body can understandably lead to anxiety for the recipient, however experienced, as they immediately fear being ‘struck off’ the Register. The second emotion is typically anger, as many concerns are unjustified and have little basis in truth. Our unequivocal advice is not to panic but to call the VDS.

Since RVNs became subject to regulation, the VDS has created a policy specifically to cover RCVS and Veterinary Council of Ireland (VCI) nurse concerns. This distinctive cover comes as part and parcel of the practice’s policy as long as you ensure you are named on the schedule of employees. Alternatively, if you are working outside the protection of a practice policy, for example as a locum or working as a replacement at another practice, you can obtain cover from the Society on an individual basis. If in any doubt as to whether or not you are covered, please contact our membership department.

As members, RVNs are entitled to the Society’s support package for RCVS or VCI complaints, to include practical assistance composing your response, financial support for legal input from our specialist solicitors if required and our ever-present moral support. Based on our experience, we should be able to advise on the likely outcome of the concern against you and, in the unlikely event that you are unlucky enough to find yourself in front of a Disciplinary Hearing, the VDS will be there to support you with an expert legal team.

Rest assured, the majority of complaints against RVNs are closed without any finding of misconduct, albeit usually with a smidgeon of advice. On some occasions the RCVS dispatches investigators to the practice and the complainant to gather further information. The interviews are informal, but still potentially stressful, but on such occasions the VDS will provide a claims consultant to provide support and assist with the process.

It is only the most serious allegations, usually involving allegations of dishonesty, which might lead an RVN to face a Disciplinary Hearing at the RCVS headquarters in Belgravia House. Hearings are a formal legal process with counsel acting on both sides. You are judged by a committee of your peers and lay personnel and ultimately, if found guilty of disgraceful conduct in a professional respect, you are likely to face sanctions including erasure (striking off the Register), a short suspension, or a reprimand. Scary stuff, so it bears repeating that the probability of ever facing a Disciplinary Hearing as a Registered Veterinary Nurse is negligible.

The risk of an RVN facing an RCVS investigation, especially a concern of a serious nature, is markedly reduced by understanding the obligations the College places on the veterinary nursing profession in the first place. This is achieved by the simple expedient of reading the RVN Code of Professional Conduct and then trying to follow the responsibilities contained within, to the letter. For the avoidance of doubt, honesty is always the best policy for professionals, however embarrassing it might be at the time of any incident.

## Criminal charges

Criminal charges against RVNs involving issues related to the performance of their daily duties are thankfully rare and easily avoided by simply following the law. Examples include breaches of the Veterinary Surgeons Act 1966, typically by misunderstanding the dispensations set out in Schedule 3 permitting non-veterinary surgeons to carry out certain procedures; prosecutions under the Animal Welfare Act 2006 for failing to provide appropriate care to animals (either lack of care for the RVNs’ own pets or patients in a veterinary practice); and the Misuse of Drug Regulations 2001.

In addition, the veterinary nursing profession is a Notifiable Occupation, which means that the Court system is obliged to report any criminal prosecution to the RCVS following a successful conviction. In other words, if a RVN was prosecuted for offences outside their daily work duties, such as drink driving, the RCVS would be informed about the incident. Additionally, RVNs have a professional obligation to inform the College of any criminal convictions at the point of annual registration in any event.

We fully understand the stress RVNs experience at the coal-face and encourage members of the profession to call at the first hint of a situation developing so we can provide practical routes forward and more importantly, moral support. Our advice line takes around 20,000 calls per year and there is absolutely no need to worry or dwell on matters when life goes wrong. After all, we are all in a ‘there, but for the Grace of God go I’ environment and a problem shared is undoubtedly a problem solved.

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