Complaints and claims

What about you?

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Case histories are based on actual medical negligence claims. However, certain facts have been omitted or changed by the author to ensure the anonymity of the parties involved.

What are the common reactions of general practitioners to litigation and complaints? Why is the threat of a claim or complaint such a severe stressor for GPs? If faced with a claim or complaint, what steps can GPs take to enable them to best manage the situation? This article examines the common reactions of GPs to claims and complaints and discusses some strategies that GPs can use to cope with the stress of these processes.

Case history

Dr Walker was locking up the surgery after a busy Saturday morning when a young man walked into the waiting room. The young man had a towel wrapped around his right hand. He said he had just cut his index finger while chopping some vegetables. He asked if Dr Walker would put in a couple of stitches to stop the bleeding.

Dr Walker asked if he had attended the practice before. The man said he was a new patient and didn't want to wait for hours at the local emergency department.

Dr Walker was anxious to get away because he was playing golf later that day. Reluctantly, he agreed to have a look at the wound. He ushered the patient into the treatment room and noted a deep laceration on the patient's right index finger.

The wound was still oozing and Dr Walker agreed to put in a couple of stitches.

Dr Walker cleaned, sutured and dressed the wound. He asked the patient to return in seven days to have the stitches removed. He jotted down the patient's name and address on a notepad and left a message for the receptionist to send an account on the following Monday. The patient did not attend the practice again.

Two years later, Dr Walker was shocked to receive a Statement of Claim alleging he had negligently treated the patient's laceration.

Medicolegal issues

According to the Statement of Claim, Dr Walker had failed to diagnose a tendon injury. As a result of the delayed diagnosis, the tendon was not repaired until some weeks after the injury. The repair had not been successful and the patient was unable to use his hand effectively. This had significant consequences because the patient was a professional musician. The patient alleged that as a result of Dr Walker's negligence, he had suffered substantial economic loss.

Initially, Dr Walker had no recollection of the patient, nor could he find any record of the consultation. Eventually his receptionist found an account that had been sent to the patient. Dr Walker had a vague recollection of seeing the patient 'as a favour' at the end of a busy morning's consultations.

Dr Walker contacted his medical defence organisation (MDO) and requested assistance in dealing with the claim. The MDO instructed solicitors to protect Dr Walker's interests. A few weeks later, Dr Walker attended a conference with the solicitors. He said that it was his 'usual practice' to check for tendon and nerve injuries when suturing lacerations involving the hand. However, he had no specific recollection of doing so in this particular case. Additionally, the absence of any medical records made the claim difficult to defend. Ultimately, the claim was settled out of court on Dr Walker's behalf.

Soon after the settlement, Dr Walker wrote to his MDO as follows:

> 'I was quite upset by the whole process as I only saw the man once as a favour and he never bothered to see me again. Also, the specialist just assumed the tendon injury was present at the time I sutured the wound without ever discussing the matter with me. This is the only time in my 25 year career that I've

been sued. I've re-lived the details countless times. I continue to feel indignant and struggle emotionally with the ordeal. I have become more vigilant. No matter how thorough and professional I might be, I view each patient as a potential claimant. The experience has certainly caused a significant professional and emotional toll'.

Discussion

A recent Australian study examining the sources, frequency and severity of work stress experienced by general practitioners revealed that GPs perceived that the most severe source of stress in their working life was the threat of a medical negligence claim.[1] This was despite the finding that litigation was the least frequent event that led to work stress.

Why do complaints and claims cause such stress for GPs? In a study examining the stress of litigation, Professor Sara Charles lists four main characteristics of the process as the source of GPs' concerns.[2]

Unpredictability

The operations of the legal and complaints systems are in themselves unpredictable, especially for those who do not work in the system or are unfamiliar with the rules, terminology or processes. Added to this is the uncertainty of whether a case will progress to the next step and, if so, when this will occur.

Loss of control

This unpredictability is a significant factor contributing to the medical practitioner's sense that they have no real control over the events and processes they are facing. This is compounded by a lack of knowledge and familiarity with the process in which they are engaged and the fact that in many instances others may make decisions that could significantly impact upon the ultimate outcome of their case.

Personal meaning

For most medical practitioners, an allegation of negligence, misconduct or incompetence is interpreted as a direct assault on their personal sense of self. The process often engenders feelings of shame and guilt. It impacts upon a practitioner's personal and work life, as well as their relationships with family, friends and colleagues. It is also likely to affect a practitioner's perception of their standing in the medical community.

Individual coping mechanisms and social support

When faced with an allegation of negligence or misconduct, many practitioners feel alone and isolated from their peers, family and friends. At a time when they most need close personal and social support, they may feel unworthy of it. A sense of shame and failure may lead a practitioner to withdraw and deny themselves valuable sources of support.

In a study exploring attitudes to litigation, 96% of the medical practitioners who had been the subject of litigation acknowledged that they had some emotional reaction for at least a limited period of time.[3] These reactions were classified into two main types. The first, noted by 33% of medical practitioners, was associated with depression. This included symptoms such as depressed mood, insomnia, loss of appetite and loss of energy. The second type of reaction, affecting 26% of the practitioners, was characterised by overwhelming anger. This was accompanied by feelings such as frustration, irritability, tension and insomnia. There was an associated inability to concentrate, difficulties in making decisions and general feelings of dissatisfaction and worry. Additionally, 16% of the medical practitioners experienced the onset of a physical illness or the exacerbation of a previously diagnosed illness. A small percentage of medical practitioners reacted to litigation by engaging in behaviour such as alcohol consumption (7%), suicidal ideation (3%) and abuse of drugs (1%).

A study of GPs' reactions to patient complaints describes three stages:

- initial impact
- conflict, and
- resolution.[4]

The initial impact was described as involving feelings of being 'out of control', shocked and in a state of panic. Most GPs described a sense of indignation toward patients in general. The second stage included many conflicts generated by the complaint. These included feelings of anger, depression, shame and even suicide. Also involved were conflicts around aspects of professional identity including doubts about clinical competence and conflicts with family and colleagues. While GPs assessed the validity of the complaint at an intellectual level, this intellectualisation did not alter the intensity and negativity of the emotional response. The final stage was one of resolution. For many of the GPs in the study, this was a negative response and involved practising in a more defensive manner. For some, it resulted in a decision to leave general practice and for a minority no resolution was achieved. Some GPs described feelings of being immune to complaints and a small minority described the complaint as a learning experience. The study concluded that, while the initial impact and conflict stages may be necessary aspects of the experience of a complaint, support structures should be put in place to help GPs through these stages.

Risk management strategies

There are a number of coping strategies that GPs can use to counteract the stressful nature of complaints and claims.

Gaining understanding and control of the process

To cope with the sense of loss of control, GPs need to accept that the legal process is unpredictable in terms of its rules and outcomes. If GPs are faced with a claim or complaint, they should familiarise themselves with every aspect of the process. For example, GPs can ask their MDO to outline the process, participate in the selection of experts and review the medical literature relevant to the claim.

Making sense of the personal meaning

General practitioners need to make sense of the personal meaning of the event. They should reflect on their own feelings in this regard and examine how the event has impacted on their relationship with patients, colleagues and family. Additionally, reflecting on issues of competence and taking steps to solidify their sense of professional competence is important. Generally, this is best achieved by participation in continuing medical education and interaction with peers.

Gathering together the resources to cope

Another important step is an assessment of one's means of coping. Self observation is essential and medical help should be sought if somatic symptoms do not promptly resolve. Utilising available social and professional supports is also vital. Most GPs involved in litigation need to share their reactions to the experience. General practitioners should identify those with whom they feel most comfortable in sharing their reactions, including their family, colleagues and medicolegal advisers and should avoid the 'conspiracy of silence' that often surrounds involvement in litigation and complaints. In this way, the consequent feelings of isolation and shame that often surround the issues of litigation and complaints can be minimised.

Conflict of interest: none declared.

References

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SUMMARY OF IMPORTANT POINTS

To minimise the stress of complaints and claims:

- Find out about the legal and/or complaints process.
- Participate in continuing medical education and other interactions with your peers.
- Institute steps to re-order your practice to make it more manageable.
- Talk openly about how you are feeling with your colleagues, family and medicolegal advisers. Seek professional counselling if you need more support.
- Seek medical assistance if somatic symptoms do not resolve promptly.
- Understand that it is normal to experience an intense emotional response if faced with a claim or complaint.