

The duty of care of GPs and receptionists to treat patients requiring urgent medical attention

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This article discusses a recent Supreme Court case¹ that made findings on several important issues in general practice:

- Are general practitioners vicariously liable for the acts of their employees?
- Do GPs owe a duty of care to patients they have not seen before?
- What are the obligations of GPs and their receptionists when patients present with symptoms or signs that may warrant urgent medical attention?
- Do GPs have a duty to provide practice staff with training and guidelines to ensure patients are appropriately prioritised?



Case history

At approximately 2 am on 4 March 1996, Mr A woke his wife complaining of a severe headache that had not resolved with two panadol tablets. Mr A asked his wife for one of her migraine tablets and subsequently went back to sleep. The following morning Mrs A told her husband she would make an appointment for him with a GP for a full medical examination. Mr A agreed with this course of action but asked her to make an appointment as late as possible in the day, so as to fit in with his work commitments. Mr A indicated he was feeling well and went to work as usual. That evening, following a consultation with her GP, Mrs A attempted to obtain an appointment for her husband who had not previously been seen at the practice. Mrs A explained to the receptionist that Mr A had a severe headache during the previous evening. According to Mrs A, it was out of character for her husband to experience a headache of such severity to require medication. Mrs A told the receptionist that she wanted her husband to have a full medical check up because she thought the headache may have been stress related. She also wanted the GP to perform a blood test to check her husband for prostate cancer. Mrs A advised the receptionist that her husband was able to go to work that day and he would prefer an appointment late in the day. The receptionist offered Mrs A an appointment in one week's time. The day before the scheduled appointment, Mrs A found her husband unconscious in bed. He was admitted to hospital where he died from a ruptured cerebral aneurysm.

Two years later, Mrs A commenced legal proceedings against the GP and his receptionist.

Medicolegal issues

In the Compensation to Relatives claim, Mrs A alleged the receptionist had been negligent in failing to offer Mr A an earlier appointment and failing to advise the GP of Mr A's symptoms. The GP was alleged to have been negligent in failing to properly instruct the receptionist on the management of patients presenting with complaints that may warrant urgent attention and failing to provide guidelines to ensure patients were appropriately prioritised. It was alleged Mr A's death would have been prevented had he been given an earlier appointment and examination by the GP.

The claim proceeded to trial and judgment was handed down in February 2001. The court found that neither the GP nor his receptionist had breached their duty of care to Mr A. Mrs A appealed the decision in the Court of Appeal. The appeal was dismissed.

Discussion

A number of legal issues are raised by this case.

Did the GP owe a duty of care to a patient he had not seen before?

The GP argued that he did not owe a duty of care to Mr A because he had not attended the practice before, and therefore there was no doctor-patient relationship. However, the court found that once Mr A's symptoms were described to the receptionist and an appointment was made, Mr A became a patient of the practice. This meant that the GP owed Mr A a duty of care.

Did the receptionist owe a duty of care to Mr A?

The court held that the receptionist owed a duty of care to ensure that a patient with a possible urgent medical condition was seen in a timely manner. If the doctor was unavailable and a patient presented with an urgent medical condition, the receptionist should refer the patient elsewhere such as to the nearest hospital accident and emergency department or another medical practice.

Was the GP liable for the actions of his receptionist?

In general terms, when an employee commits an act of negligence during the course of his or her employment, the employer is vicariously liable to the injured third party. In this case, the receptionist was an employee of the GP and the court held that the GP was vicariously liable for her acts.

Did the receptionist and/or the GP breach their duty of care in relation to Mr A?

The court held that a receptionist acting reasonably and prudently would not have appreciated that Mr A could have a life threatening condition on the information provided to her by Mrs A. The receptionist was aware that the severe headache

had subsided and Mr A was well enough to go to work the next day. In these circumstances, the court found there was no requirement for the receptionist to inform the GP of Mr A's symptoms and no obligation to offer an earlier appointment. In relation to the GP, the court concluded that the GP had properly instructed the receptionist on the appropriate management of patients who presented with complaints that may warrant urgent treatment. Additionally, the GP had guidelines in place that enabled his receptionist to prioritise patients and consult him when she was unsure if a patient required urgent medical treatment. Accordingly, the court handed down a verdict in favour of the GP and his receptionist.

Risk management

General practitioners need to ensure their practice staff, including receptionists, are adequately trained to recognise possible urgent medical conditions. A policy or guidelines should be in place for properly prioritising patients.

The RACGP Standards for General Practices² recommends a general practice should have a triage system that enables it to provide medical care to patients with urgent medical problems. The indicators for this are:

- staff have been trained to recognise urgent medical matters
- staff can describe urgent medical matters and procedures for obtaining urgent medical attention
- the practice has a written policy for dealing with urgent medical matters.

The RACGP Practice Procedures Manual³ states that the GP on duty should be immediately notified of patients who attend with the following conditions:

- sudden onset of severe chest pain
- collapse
- shortness of breath
- allergic reactions
- bleeding
- fractures

- suspected drug overdoses
- vomiting
- severe headache or migraine
- fever or heat stroke
- loss of consciousness or drowsiness.

Patients may also be triaged over the telephone. If there is no doctor available, an ambulance should be called.

SUMMARY OF IMPORTANT POINTS

- GPs are liable for the negligent acts of their employees, including their reception staff and practice nurses.
- GPs need to ensure that guidelines are in place for properly prioritising patients.
- Receptionists require adequate training to recognise potentially urgent medical conditions.

References

1. *Alexander v Heise & Anor* [2001] NSWSC 69.
2. The Royal Australian College of General Practitioners. Standards for general practices. 2nd edn. Melbourne: RACGP 2000; 1.
3. The Royal Australian College of General Practitioners. The RACGP practice procedures manual. Melbourne: RACGP 2000; 3.10.

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