

The impact of complaints on doctors

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Background

There has been increased recognition in the literature of the impact that complaints can have on practitioners' health and wellbeing.

Objective

This article reviews the recent literature about the impact of complaints on practitioners and explores the experience of a medical defence organisation (MDO) assisting its members with those complaints. The article also considers proposals to improve the complaints system in order to reduce the adverse health impacts that doctors may face after receiving a complaint.

Discussion

Australian regulators should formally acknowledge the significant impact the complaints process can have on practitioners, and continue to improve the process to reduce these adverse effects. MDOs have a role in supporting their members, and in educating them about the process and how to minimise the impact. Doctors' health advisory services have a key role in providing support to practitioners in need. Members of the profession should encourage a culture that is supportive of the health and wellbeing of colleagues.

I found that my mind was obsessing on the case 24/7 and it was too easy to let this take over. I started suffering the basic symptoms of anxiety with even occasional moments of panic, and found myself waking up in the middle of the night with the case on my mind.¹ –

Dr Emmanuel Varipatis

Dr Varipatis is a general practitioner (GP) who endured the experience of the litigation process. He was ultimately successful in defending his case,² but rated the case as 'right up there with bad marital or financial stress'.¹ His experience reflects that of many practitioners who are on the receiving end of a medico-legal matter, whether a medical negligence claim, professional conduct complaint or other type of complaint. Complaints and claims can call into question a practitioner's decision-making, conduct or communications skills. As such, these can have a significant impact on a practitioner's sense of self, and on their professional and personal lives. In light of the increase in professional conduct complaints against medical practitioners in recent years,³ this article focuses in particular on the impact of regulators' complaints-handling processes in professional conduct matters.

Research findings

This impact was highlighted in an article published in early 2015 in *The BMJ*. Bourne, Wynants and Peters reported on a study of around 8000 doctors in the UK and found that those who experienced professional complaints had a higher risk of anxiety and depression.⁴ Doctors were 3.78 times more likely to report suicidal thoughts while going

through a recent or current complaint, compared with doctors who had no complaints.⁴ The study found that the level of psychological distress was related to the type of complaints procedure – doctors going through a formal disciplinary process reported the highest levels of depression, anxiety and thoughts of self-harm.⁴

The findings are concerning, and the article is the latest piece in a line of research on the topic. In 1999, Jain and Ogden reported that GPs who had received complaints reported feelings of anger, depression and anxiety, and suicidal thoughts.⁵ A literature review published in 2004 found that the threat or receipt of a complaint or litigation can result in emotional, physical and behavioural changes in doctors, including practising defensively.⁶ Other studies have identified psychological and physical impacts, including anxiety, frustration, anger, insomnia, suicidal thoughts, depression and the onset or exacerbation of physical illness.^{7,8}

In another study of GPs, practitioners who had a current medico-legal matter had greater functional impairment in work, social and family life than those who did not have a current matter.⁹ Doctors with experience of a medico-legal matter had more negative attitudes towards their work and in their relationships with patients.⁸ Many doctors describe having a medico-legal complaint as the most traumatic experience of their lives, even when the matter is resolved in their favour.⁶ The work-related factor that was associated the most with psychiatric morbidity was having a current medico-legal matter.¹⁰

It has been reported that, as well as being affected by an adverse event itself, doctors and patients may be affected by the way in which the event was handled.¹¹ If the process used in investigating an incident or complaint lacked transparency, timeliness and fairness, practitioners risked becoming the 'second victim' in that process.¹¹

Medical defence organisation experience

Findings in the literature are supported by experience. Medical defence organisations (MDOs) have assisted countless doctors who have had an adverse psychological reaction on receipt of a claim or complaint. These organisations have seen the full range of reactions, but the most distressing for all concerned is suicidal ideation, which unfortunately on rare occasions has been acted on.¹²

Even minor matters can have a devastating impact on the professional and personal lives of practitioners. This impact may occur regardless of the outcome of a complaint, and can be compounded by delays and inefficiencies in the complaint-handling process.¹³

This is not to say that all doctors have adverse reactions to complaints. Levels of resilience vary between practitioners. Some practitioners have minimal stress and view the process as an educative one. However, the experience of MDOs is that only a minority of practitioners react this way.¹²

MDOs in Australia offer varying levels of support to their members experiencing claims or complaints. Support includes arranging health checks,¹⁴ telephone advice lines (for general medico-legal advice and psychological support), general information about wellbeing, and specific information about claims and complaints processes, and the stress that can be caused.¹⁵

Formal recognition

Despite the research findings and experience of organisations assisting practitioners, there has been limited formal recognition by regulatory authorities in

Australia of the significant impact that a complaint may have on a practitioner and of the need to minimise this impact.

In the UK, the impact of the regulatory process on practitioners was recently the subject of attention following the disclosure in 2013 that 96 doctors had died since 2004 while involved in General Medical Council (GMC) investigations.¹⁶ As a result, the GMC commissioned a review into cases where doctors committed suicide while under fitness-to-practise procedures.¹⁷ The aim of the review was to determine:

whether the GMC's processes could be improved to reduce the impact on vulnerable doctors and whether there is more the GMC can do to prevent these tragedies from occurring.¹⁷

A case review found that between 2005 and 2013, 28 doctors died as a result of suicide or suspected suicide while involved in GMC fitness-to-practise procedures. A range of concerns were raised by doctors interviewed for the review about the process, including the tone and nature of communications from the GMC, time frames, and lack of support services for doctors.¹⁷ Many of the concerns noted in the GMC review mirrored the experience of doctors (and consumers) involved in complaints processes in Australia.^{12,18,19}

No corresponding data are available on the Australian experience, so it is not known whether a similar situation exists as a result of the Australian regulatory processes. However, the mental health of doctors has increasingly been the subject of discussion over the past few years, culminating in the findings of beyondblue's mental health survey reported in October 2012.²⁰ This survey found that doctors reported substantially higher rates of psychological distress and attempted suicide when compared with the Australian population and other Australian professionals. The findings of the beyondblue study are similar to findings reported in the UK and US.¹⁷

Stigmatising attitudes about job performance of doctors with mental health issues remain.²⁰ Doctors are healers –

they are reluctant to seek help when they need it,²¹ and may regard illness as a sign of weakness.²² This can compound the feelings of distress felt by doctors when their professional competence is called into question in a claim or complaint.

Complaints against medical practitioners will continue to be a significant issue into the future. Data from the Australian Health Practitioner Regulation Agency (AHPRA) show that notifications about medical practitioners rose between 2012 and 2014.³

Australian health regulatory authorities (AHPRA, Medical Board of Australia [MBA], and state and territory medical boards) have as their primary objective protection of the public.²³ AHPRA and the national health practitioner boards state that they take a responsive, risk-based approach to regulation.²⁴ Such an approach requires regulators to take the least intrusive course of action that will protect the public from the risk of harm, and to respond in ways that are proportionate to the risk.²⁴ Responsive regulation emphasises prevention rather than punishment, and focuses on partnership rather than being adversarial.²⁵

AHPRA and the national boards concede in their regulatory principles that the regulatory process is still perceived by many practitioners to be punitive.²⁴ AHPRA and the MBA have not gone as far as the GMC, which in announcing its review, accepted that it had a duty of care to doctors in its procedures.¹⁶ However, there should be greater acknowledgment by regulators of the impact that regulatory processes can have, and of the need to ensure practitioners have access to adequate support when needed.

In a welcome development, the MBA in 2014 announced that it would fund external doctors' health programs in Australia to complement the regulatory process for impaired doctors who may place the public at risk.²⁶ At that time, Dr Joanna Flynn noted, 'One message is clear: we care about the wellbeing of medical practitioners and students and we are improving their access to health services'.²⁶ In further recognition of the

impact of regulation on the profession, the MBA announced that it would not oppose changes to the national law that would see the Western Australian exemption to mandatory reporting provisions adopted nationally.²⁷ This followed media reports²⁸ that the fear of mandatory reporting was acting as a barrier to practitioners seeking appropriate help and treatment for impairments.²⁹ Unwell doctors who do not seek appropriate treatment for their conditions, and whose conditions may be caused or contributed to by unfair regulatory processes, put themselves and their patients at risk, to the detriment of the healthcare system as a whole.

Solutions

Delays, administrative errors, and lack of transparency and timeliness all compound the stress associated with receiving a complaint.^{13,30} Improving timeliness in complaints handling, and ensuring that there is parity in time frames so that practitioners have sufficient and equivalent time to respond to the regulator's requests, would go a long way to improving practitioners' experiences of the regulatory process and increase public confidence in the regulator.¹²

AHPRA, the MBA, and state and territory boards are making improvements to their processes.³ The next step for regulators is to formally acknowledge the significant impact that regulatory processes can have on practitioners. They should continue to implement improvements to ensure that their processes are fair, transparent and timely, and minimise the risk of harm to those being regulated.

But it is not all up to the regulators. Medical defence organisations have a role to play in supporting their members, educating them about the legal process and ensuring they understand how medico-legal issues can affect their personal and professional lives. External health programs, such as doctors' health advisory services around Australia, have a key role to play in providing support services to practitioners experiencing the psychological impacts of the complaints process.

Above all, doctors need to look after themselves and their colleagues, not just their patients.

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