

Receiving a clinical negligence claim or patient complaint can be extremely stressful for doctors, and it is a time when both support and assistance is needed. This article looks at how doctors can prevent a clinical negligence claim in an often complex and unpredictable claims environment.

As a doctor, being notified that a patient is filing a clinical negligence claim against you can fill you with dread. Medical professionals strive to always do their best for their patients, but being human, and therefore fallible, there will be the occasional error of judgement and poor outcomes.

It is not just the emotional impact of a clinical negligence claim that can take its toll on a doctor; having to face the unknown and the complexities associated with a lawsuit can sometimes be more difficult to deal with.

At such times, doctors need to know who they can turn to for support and assistance. Often, the best support comes from other doctors who understand the challenges and pressures of practising medicine, as well as managing patient expectations. This is where medicolegal advisers appointed by one's indemnity provider can help, as they are medically and legally trained, and have experience dealing with actions taken against doctors on a daily basis.

Avoiding a claim or complaint

One of the key questions doctors have is "how can I avoid receiving a claim or complaint?" While there is no guarantee of ever completely avoiding a claim or complaint, it is possible for doctors to take steps to reduce the risk.

Complaints and claims generally arise because patients are unhappy –

UNHAPPY PATIENTS: HOW TO PREVENT COMPLAINTS AND GETTING SUED

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often a result of poor communication. Many legal actions and complaints made by patients involve situations that have not involved error or negligence, and in some cases no clear injury was found. Indeed, studies show that most patients who take action have experienced uncaring attitudes, rudeness, poor communication, disempowerment or feelings of desertion.^{1,2}

Even when a doctor has examined their patient thoroughly, made the correct diagnosis and prescribed an appropriate course of treatment, he/she can easily cause the patient to misunderstand and be dissatisfied with them by not explaining and communicating clearly what they are doing to the patient as they go along.

When discussing treatment options with patients, doctors should put themselves in their patients' shoes and think about what they would want to know about the treatment. One may have to assume that the patient has no knowledge about his/her options, and therefore the benefits and risks of the different options must be explained in a balanced way. Share information about the complications, side effects and anything else that relates to the patient's past medical and present social and occupational history, as well as the possible consequences of no treatment. Explaining risks and complications of treatment when taking consent is not just about giving patients a long list of possible complications.

Improving communication

Similarly, managing patient expectations is key to preventing claims and complaints, and is a process that begins and ends with good communication. One of the most effective ways to improve communication is for doctors and

patients to make decisions together. This shows respect for the patient, and an appreciation for their specific needs. Patients are encouraged to engage in the healthcare process and consider the options to treat or manage their condition (and the likely benefits and risks of each), so that they can help select the best course of action.³ Doctors should also bear in mind that no intervention or conservative treatment are also options to consider.

However, even before a complaint or claim is made, doctors should utilise educational tools to ensure they remain aware of the medicolegal risks associated with practice. There are many educational tools available, many of them free, to support doctors and to help prevent problems from occurring in the first place. Speak to your medical education coordinator or the SMA about the courses provided through the Association or by your medical indemnity partner.

Support during a difficult period

Clinical negligence claims can be complex and when faced with the prospect of litigation, doctors can understandably be worried about what might happen to them, their career and their reputation. In order for doctors to be reassured and provided with the best support, it is important that they have access to medical and legal experts who understand the situation they are facing.

If a doctor receives notification of a claim, they should contact their protection organisation in the first instance. In times of need, it is important to have the support of a fellow professional who not only has expertise in medicolegal matters as well as clinical and professional issues, but who also understands exactly what the doctor is going through.

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Prevention is better than cure

Receiving a complaint or dealing with a claim is often a very stressful situation for each and every doctor who has ever experienced it. Therefore, it's important to seek support and assistance from one's team, employer, medical association and medical indemnity partner throughout this period. And it's always best to try and avoid a claim or complaint in the first place. Ensuring that one seeks out continual education, and surrounding themselves with the right support and partners, will often not only make dealing with complaints and claims easier, but it can also prevent them from happening. ♦

References

1. Beckman HB, Markakis KM, Suchman AL, Frankel RM. *The doctor-patient relationship and malpractice: Lessons from plaintiff epositions.* *Arch Int Med* 1994; 154:1365-70.
2. Stephen F, Melville A, Krause T. *A Study of Medical Negligence Claiming in Scotland.* *Government Social Research, Scotland. Research Findings No 113/2012.*
3. Elwyn G, Laitner S, Coulter A et al. *Implementing shared decision making in the NHS.* *BMJ* 2010; 341c5146.