DOCTORS' HEALTH

The psychological impact of complaints and negligence suits on doctors

Louise Nash, Christopher Tennant and Merrilyn Walton

Objective: *To describe the psychological impact of complaints and negligence litigation on doctors.*

Methods: *A review of the literature from 1966 to 2003 was conducted. Additional sources were obtained from targeted experts and organizations.*

Results: *Doctors who have been sued or who have had formal complaints made against them describe the process as an extremely stressful experience. Depression and adjustment disorder were relatively common, while drug and alcohol abuse, physical illness and suicidal ideation were reported less frequently. The majority of doctors who have been the subject of a complaint or law suit practice more 'defensively'.*

Conclusions: *A complaint or law suit is uncommon in the daily practice of doctors, yet in today's medicolegal environment they pose a constant potential threat. The threat of, or actual, legal process can cause psychological, physical and behavioural practice changes. The obsessional personality of many doctors may make them particularly vulnerable to seeing the process as a challenge to their professional and personal identity.*

Key words: *complaints, doctors, malpractice, medical negligence, psychological impact.*

One of the parliamentary requirements underpinning self-regulation by the medical profession is the establishment of effective complaint mechanisms for holding the medical profession accountable. In addition, the tort system provides a mechanism for patients seeking compensation. Media coverage of large compensation payments, the provisional liquidation of Australia's largest medical insurance company and the Australian Broadcasting Corporation television drama *MDU* have made these processes and activities more public. Beyond the eventual medical and financial outcome, there remains ongoing psychological sequelae for patients and doctors. The stress on patients (as plaintiffs or complainants) is recognized and has been explored.[1] The aim of the present paper was to examine the psychological impact of negligence suits and the medical complaints process on doctors, irrespective of the final legal outcome.

This issue is highly relevant to psychiatrists in a number of ways: first, as the doctors complained about; second, through the treatment of doctors going through the complaint process or as defendants in medical negligence claims; third, as medical colleagues; and, finally, as teachers of medical students and trainees. Although information about the number of negligence actions against Australian and New Zealand psychiatrists is not available, we do know that the medical boards in Australia and New Zealand and Australian State Health Commissions receive complaints concerning psychiatrists and psychiatric care in hospitals. These complaints concern boundary violations, inappropriate drug prescribing and incorrect diagnosis. There were 16 complaints

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(3.2% of total public hospital complaints) received by the Health Care Complaints Commission in the year 2000–2001 about public hospital psychiatric care, and two complaints (3.0% of total private hospital complaints) about psychiatric care in private hospitals.[2]

METHOD

A MEDLINE search of the published literature from 1966 to 2003 was conducted. Key words were 'medical negligence and doctors', 'malpractice and doctors' and 'complaints and doctors'. Additional articles were found from these sources. Some articles were forwarded to the authors from people interested in the field. Two recent annual reports of the Health Care Complaints Commission were accessed.

Few empirical studies on the impact of negligence suits and the medical complaints process on doctors exist, but there are many commentaries. Furthermore, the majority of empirical studies had a poor response rate. These studies used two sampling methods: first, assessing doctors in general; and second, assessing the subset of doctors who have either been sued or have had a complaint made against them. In reviewing the studies, we examined: (i) the frequency of a lawsuit or complaint; (ii) the impact on the doctor's psychological and physical well-being, and their sense of professional identity; and (iii) changes occurring in their practice of medicine, which can affect both the standard and cost of health care.

RESULTS

Frequency

In New South Wales (NSW), one doctor in 20 is the subject of a written complaint to the Health Care Complaints Commission.[1] In 1998–1999, 2052 complaints were lodged with the Commission. Less than 10% of these complaints resulted in some form of 'disciplinary' action: counselling, limiting conditions of practice, supervision of practice or deregistration.[3] In 2000–2001, 2888 written complaints were received by the Commission.[2]

It is also known that nearly 2% of general practitioners insured with the medical insurance company United Medical Protection face a medical negligence claim each year. The figure varies considerably among the specialties. However, only 6% of the Australian litigated claims progress to trial, 28% are discontinued and 66% are settled out of court.[4] At the extreme, in the USA, 77% of Fellows of the American College of Obstetrician and Gynaelologists have been sued at least once.[5]

An Australian postal survey of 464 randomly selected metropolitan general practitioners (46% response rate), found that the 'threat of litigation' was perceived as the most severe work-related stressor even though it was considered an infrequent actual event.[6]

Impact on psychological and physical well-being

A qualitative study of the emotional response of 30 British general practitioners who had complaints made against them, found the following three stages of response: 'initial impact', 'conflict' and 'resolution'. The impact stage involved a sense of 'being out of control', a feeling of shock and panic, and indignation towards patients generally. The conflict stage included conflicts around professional identity, conflicts with family and colleagues, and conflicts arising from the management of the complaint. This was accompanied by feelings of anger, depression and suicidal ideation. The resolution stage involved defensive practice or, for some, plans to leave general practice. There was no resolution for a minority. Complaints were rarely perceived as learning experiences, and indeed one doctor stated that they were 'immune' to complaints, describing them as 'like parking tickets'.[7]

In Chicago, 5135 doctors were sued in the period 1978–1981. A postal survey of a random sample of 450 of these doctors (154, 34% surveys returned) showed that none had an adverse trial verdict. Nevertheless, two clusters of emotional symptoms were found in the respondents. Thirty-nine per cent of respondents had symptoms suggestive of 'major depression'. Although many of these failed to note the duration of symptoms, 27% of respondents noted that their symptoms lasted longer than 2 weeks. Twenty per cent of respondents had a symptom cluster thought to be suggestive of an 'adjustment disorder'. This included anger and four of eight other symptoms, including mood change, inner tension, frustration, irritability, insomnia, fatigue, gastrointestinal symptoms and headache. Only 4% reported no physical or emotional symptoms.[8]

In a related study, a random sample of 1000 Chicago doctors (including sued and non-sued doctors) was surveyed (37% response rate). Both the threat and actuality of litigation were found to cause emotional distress, with sued doctors reporting significantly more symptoms than non-sued physicians.[9]

In a second related study, a subset of 51 physicians who had been sued for medical malpractice was interviewed. Of these 51, five had gone to trial, with two having a trial verdict for the plaintiff and three for the defendant. The majority of suits filed against the doctors resulted in no payment to the plaintiff; thus, an adverse outcome itself is not the most significant issue. Nearly one-quarter (23%) identified litigation as their most stressful life experience. These doctors experienced more physical and emotional symptoms than their colleagues who identified some other event (such as death of spouse or divorce) as being their most stressful life experience. Indeed,

45% of the former compared with 15% of the latter reported symptoms suggestive of major depression.[10]

An unrelated US study of 620 sued and non-sued physicians in Southern USA (44% response rate), similarly found that malpractice litigation was a major life trauma. Stress symptoms in those who had been sued were highest during the first 2 years after the lawsuit, and later remained greater than non-sued physicians. Those who saw litigation as a job hazard and not an attack on their ability as physicians were better able to use adaptive coping mechanisms, such as improved office practices. This group also minimized negative coping, such as self-blame, and were more active participants in their defence.[11]

Physical symptom sequelae are also noteworthy. In the Chicago study of sued doctors (n = 154), 8% of respondents noted the onset of a physical illness during the legal process: three respondents (2%) had a myocardial infarct during the time of litigation, while 11 (7%) acknowledged an exacerbation of a previously diagnosed illness. This study also found that 7% of respondents felt their families had also suffered as a result of the litigation.[8]

Impact on professional identity

In a qualitative study in Oregon, 11 doctors were interviewed regarding mistakes. Themes from this study include the ubiquity of mistakes; the infrequency of disclosure of mistakes to colleagues, family or friends; the lack of support from colleagues and the significant emotional distress on the physician. Their beliefs about 'perfection' may influence the severity of the distress, while their sense of competitiveness in medical training and practice influenced non-disclosure of mistakes.[12]

In a similar qualitative study, 30 doctors took part in an in-depth interview regarding the emotional impact of mistakes. The most common responses were self-doubt (96%), disappointment (93%), self-blame (86%), shame (54%), and fear (50%).[13]

The experience and attitude toward malpractice litigation were assessed in a postal survey of 287 Canadian medical practitioners. Sixty per cent responded. Of these, only 2% of the primary care doctors and 6% of specialists had been sued with damages paid, but more than 80% of respondents believed that a malpractice suit would cause serious short-term or long-term damage to reputation, regardless of outcome.[14]

In the Chicago study of 154 doctors who had been sued, 9% of respondents felt a loss of clinical nerve, and 15% felt a general loss of confidence as a physician. Nearly one in five (19%) believed that their medical practice had suffered, and one-third entertained thoughts of retiring early.[8]

The issue of professional identity was more specifically addressed in a postal survey of 848 specialist doctors in the UK (52% response rate).[15] Complaints caused feelings of fear, hurt, concern about reputation, distress at lack of understanding, and increased vulnerability. Thus, threat to identity occurs regardless of whether or not the allegation of error is considered to be justified. Some 90% of respondents discussed the complaint with another person, usually a colleague. The investigators concluded that complaints have a significant and lasting effect on doctors, initially causing a deconstruction of identity, followed by a reconstruction anchored in scientific rationality and support of peers. Complainants are commonly seen as psychologically ill or having problem personalities.[15]

Changes in medical practice

Changing one's practice as a result of the threat or actuality of litigation is a common finding.[7,8,10,14,16] These changes can be seen as either positive or negative 'defensive' practice changes. Positive defensive practices include increased screening, development of audit or consumer satisfaction activities, more detailed record keeping and more extensive explanations to patients. Negative changes include prescription of unnecessary drugs and unnecessary increase in frequency of follow up, referral rates and diagnostic testing, as well as avoidance of certain treatments and even 'removal' of a patient from the practitioners' lists.[16]

In 500 randomly selected general practitioners in the UK (60% response rate), more than 30% of respondents worried about being sued or having a complaint lodged against them. Ninety-eight per cent of doctors claimed to have made some 'defensive' practice change in reaction to even the possibility of a complaint. There was a high correlation between defensive medical practice and the worry about being sued. Unfortunately, the correlation was stronger for negative defensive practices than positive practices.[16]

Defensive practice was defined differently in a Canadian postal survey (n = 172) as those practices designed to reduce the risk of prosecution (rather than those to benefit the patient). One-third of respondents indicated that they occasionally practised defensively, while 12% did so frequently.[14]

More specifically, increased diagnostic testing (when clinical judgement assessed this as unnecessary) was reported by more than 50% of the UK general practitioners[16] and by 62% of sued doctors in Chicago.[8]

Similarly, there was an increase in specialist referrals in 50% of UK general practitioners.[16] This was the most frequent practice change even in those sued Chicago doctors who did not regard litigation as their most stressful life event.[10] Avoidance of procedures was reported by 50% of primary physicians in Canada[14] and by 28% of sued Chicago doctors.

Indeed, 42% of respondents in the latter study stopped seeing certain kinds of patients.[8]

Information given to patients also increased: 80% of Canadians offered more information to patients,[14] as did 50% of UK general practitioners,[16] while 69% of sued US doctors kept more meticulous records (however, some 25% also recorded less 'pertinent' information).[8]

DISCUSSION

These studies are limited by their poor response rates and potential for bias. However, common themes that emerge include that the threat and actuality of a complaint or law suit can cause emotional and physical disequilibrium, and that there are both positive and negative changes in medical practice.

Individual and systemic factors influence how doctors cope emotionally and behaviourally with this process. The personality and professional identity of the doctor is significant. For example, obsessional traits may be useful in avoiding mistakes, but this may also then compromise the doctor's ability to cope when a complaint occurs.[17] Many doctors are acutely sensitive to an accusation of failure to meet standards of care, with the implications of incompetence.[18] Their sense of professional identity is at stake and the threat of damage to reputation can be devastating. Other factors influencing the doctors' response are the availability, or lack, of professional and personal support systems (and the doctors' willingness to use them), and the medical culture of infallibility, whereby errors in patient care may be viewed as manifestation of character flaws.[19]

CONCLUSIONS

The aforementioned studies suggest that the threat or actuality of a complaint or law suit can cause emotional, physical and behavioural changes. This is becoming increasingly important, given that complaints and litigation are increasing.

The complaint or litigation process is usually a long process and can be a chronic stressor. However, the process is not the sole cause of distress. The affront of a negative outcome for one's patient is painful, regardless of the cause. The personality style of many doctors may make them more vulnerable to this stressor, the process being viewed as an insult to their professional identity, coupled with a medical culture of infallibility and a sense of failing their codes of ethics.

Effort needs to be made to address physicians' fear of litigation and remove the stigma of implied 'failure to care'. This will require a change in attitude that medical mistakes come from a lack of incentive to take appropriate care.[20] The medical culture of doctors being infallible mitigates against mistakes being openly discussed.[21] Further empirical studies in this field will enable appropriate education of medical students and postgraduates to assist them to deal with this process. The aim is not only better and more cost-effective patient care, but also better mental health for doctors who have complaints made against them.

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