

Medicolegal pressures improve communications with patients

Patient Education

Briefings

2011

Medicolegal pressures change practice in both positive and negative ways.

Doctors' communications with patients have improved due to concerns about the medicolegal consequences of poor communication, Dr Louise Nash and her colleagues report.¹

In the largest study of its kind in Australia, of 3,000 respondents (GPs, surgeons, O&Gs, anaesthetists and other specialists), the researchers found that:

- eight out of 10 doctors provided more information to patients due to medicolegal concerns
- two out of three doctors reported improved communications of risk
- about half are more attentive to patients
- about half reported increased

disclosure of uncertainty

- half developed better systems for tracking results, and
- about four of ten doctors developed better methods for identifying non-attenders and for auditing clinical practice.

While medicolegal pressures appeared to improve processes of communication with patients, some doctors were also adversely affected by these pressures.

For example, Dr Nash reported that doctors' worries about medicolegal issues led 33% of them to consider giving up medicine, 32% considered reducing their working hours, and 40% considered early retirement.

Dr Nash said the team's conclusions were similar to international studies and confirmed that doctors' experience

with medicolegal issues affected their practice.

The impact of previous medicolegal complaints significantly increased the practice of defensive medicine.

International studies have reported that medicolegal pressures result in:

- excessive referrals
- excessive ordering of tests and diagnostic imaging
- excessive prescribing of medication
- avoidance of certain patients or procedures
- more information being given to patients
- more reflective practice
- greater sensitivity to societal and professional expectations
- willingness to make system improvements, such as better audit procedures and record keeping.

While about half of the doctors believed that they had to make perfect decisions under the law, Dr Nash said the law does not demand perfection.

She said, “The High Court of Australia in *Rogers v Whitaker* established that the law imposes on a medical practitioner a duty to exercise reasonable care and skill in the provision of professional advice and treatment.”

The authors concluded that doctors need education about the medicolegal environment and an understanding of how medicolegal matters can affect their practice of medicine.

“Training in patient safety and medicolegal aspects of medical practice will help doctors to be better informed and to better understand how such

issues influence their judgment and decision making,” they said.

Another aspect of their study addressed factors associated with psychiatric morbidity in doctors. Three work-related factors were significantly associated with psychiatric morbidity:

- having a current medicolegal matter
- not having a holiday in the previous 12 months
- working long hours.

Nash and colleagues believe that the mental health of medical practitioners is crucial to the quality of care their patients receive.

Doctors should reflect on their hours of work and need for holidays. Involvement with medicolegal

processes, such as lawsuits, complaints and inquiries, is a stressful part of medical practice today.

Doctors need to be educated about these processes and understand how the experience may affect their health, work and loved ones.²

References

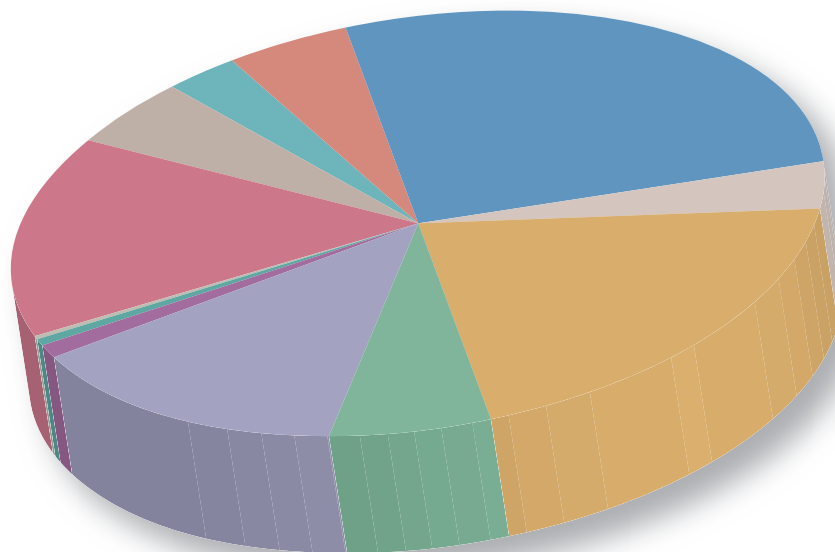
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Dr Louise M. Nash, FRANZCP, is the Coordinator of the Postgraduate Course in Psychiatry, NSW Institute of Psychiatry, Sydney, NSW.

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Total: 8,555 claims

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- Consent - 318
- Diagnosis - 1,679
- General duty of care - 549
- Treatment - 1,209
- Infection control - 97
- Blood - product related - 51
- Device failure - 33
- Not known - 1,302
- Other category - 407
- Anaesthetic - 240
- Medication related - 392

Released in March 2011, “Public and private sector medical indemnity claims in Australia 2007-08” reports comprehensive data from the Medical Indemnity National Collection for the financial year 2007-08. The report describes medical indemnity claim characteristics and costs. Australian Institute of Health and Welfare 2011. Public and private sector medical indemnity claims in Australia 2007-08. Safety and quality of health care no. 7. Cat. no. HSE 90. Canberra: AIHW. <<http://www.aihw.gov.au/publication-detail/?id=10737418323>>

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Dr Kim Forrester, RN, BA, LLB, PhD, Barrister at Law, Associate Professor, Faculty of Health Science and Medicine, Bond University, Queensland



Dr Debra Griffiths, RN, BA, LLB, LLM, PhD, Legal Practitioner, Senior Lecturer, Faculty of Medicine, Nursing & Health Sciences, Monash University, Victoria

