Avant Position Paper
The impact of claims and complaints on doctors’ health and wellbeing
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Avant believes that:

- regulators, investigating authorities and other organisations (including organisations involved in investigating complaints against doctors they employ or engage) should:
  - formally acknowledge the significant impact that regulatory and disciplinary processes can have on those they are regulating
  - ensure that their processes are fair, transparent and timely, and minimise the risk of harm to those being regulated
- regulators and other investigating authorities should have due regard for the wellbeing and reputation of doctors in dealings with them
- doctors should have access to appropriate support and services to maintain their health and wellbeing, particularly when they are involved in medico-legal matters
- doctors who are ill, or impaired, should be able to consult with a treating practitioner without fear that they will be subject to having conditions placed upon their ability to practise
- external health programs such as doctors’ health advisory services around Australia should be nationally consistent and properly funded.

Avant calls for greater acknowledgement by regulators of the impact of regulatory processes on doctors’ health and wellbeing.

Introduction

Although many may suggest that an allegation of medical negligence or unprofessional conduct should not be taken personally, most practitioners regard such allegations as a direct assault on their personal and professional integrity.

Avant assists members to respond to claims and complaints against them and sees daily the significant personal, physical and psychological impact claims and complaints can have. Healthy doctors are fundamental to a world-leading healthcare system. If doctors are unhealthy, stressed or in distress, they can put themselves and their patients at risk.

The paper outlines:

- Avant’s experience of, and the literature about, the impact of claims and complaints on practitioners
- Avant’s position on improvements that can be made to ensure practitioners are properly supported throughout a claim, complaint or other regulatory or legal process.

Avant is Australia’s leading medical defence organisation, representing more than 64,000 health practitioners and students.

Background

Avant assists members in many types of medico-legal claims, including claims of medical negligence, professional conduct and coronial matters, matters involving Medicare audits and disputes with the Professional Services Review and others about billing practices, and employment disputes. In this paper, the term “medico-legal matters” is used to include all types of legal and regulatory processes in which Avant covers its members under its policies.

With the increased focus in recent years on the impact of the complaints process on consumers, and the understandable focus of litigation on the injured patient in a medical negligence claim, the impact of medico-legal matters on the respondents is often forgotten.

Medico-legal matters can call into question a practitioner’s decision-making, conduct and/or communications skills, and as such can have a significant impact on a practitioner’s sense of self and on their professional and personal lives.
Avant’s experience

Avant has assisted many doctors who have suffered adverse psychological reactions when involved in a medico-legal matter.

Reactions can include:
- ambivalence, indifference
- irritation, defensiveness, frustration, anger
- self-doubt, feelings of guilt and shame, embarrassment
- sleeplessness, depression, anxiety, suicidal thoughts.

The most distressing reaction for all concerned is undoubtedly suicidal ideation. Unfortunately, on rare occasions this has been acted upon.

The personal and professional impact of medico-legal matters should not be underestimated. Even minor matters or the most well-handled claims or complaints can have a devastating impact on the professional and personal lives of practitioners. This impact may occur regardless of the outcome, and regardless of whether the matter is the first one experienced, or is the latest in a series. The impact can be compounded by delays and inefficiencies in the regulatory or legal process itself.

Not all doctors have adverse and negative reactions. Levels of resilience vary between practitioners. Some practitioners exhibit minimal stress and view the process as an educative one. However in Avant’s experience, this is the minority.

There is also a significant impact on the families of practitioners involved in complaints proceedings, an impact that is often forgotten.

The outcome of medico-legal matters for practitioners can be life-changing. In many professional conduct and employment matters, there is the potential for restrictions to be placed on a practitioner’s ability to practise. This can extend to removing prescribing rights, restricting clinical privileges, and suspension from practice or deregistration where there is a disciplinary finding of professional misconduct. In Medicare audit and Professional Standards Review matters, practitioners can be disqualified from billing items under the Medicare Benefits Schedule or the Pharmaceutical Benefits Schedule for a period of time. The financial stress associated with these matters can be considerable.

Some medico-legal matters can take several years to resolve. The time taken to resolve matters can compound the health impacts experienced by a practitioner. Further, the media reports that are often associated with these types of matters add to the considerable distress and anxiety that doctors can experience when dealing with claims or complaints. Avant is committed to supporting doctors through these processes.

Comments from Avant members:

“Avant successfully defended my claim. But this took far too long, causing continued personal and family stress and disruption.”

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“I lost sleep for three months for what was always a spurious claim.”

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“Personally, I suffered great anxiety, self-doubt and many other emotions … To be honest, I am still trying to come to terms with it all …”

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“It is hard to understand the stress involved until you go through the process.”

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“This has been the catalyst for my ceasing medical practice in Australia. I cannot deal with these events on top of the stress I am already under. There is no [other] job that puts practitioners under such stress and nobody gives a damn.”
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The literature

Avant’s experience is supported by the literature. In 1999, Jain and Ogden reported that general practitioners who had received complaints reported feelings of anger, depression, anxiety and suicide. Studies have identified psychological and physical impacts, including anxiety, frustration, anger, insomnia, suicidal thoughts, depression and the onset or exacerbation of physical illness. A literature review published in 2004 found that the threat and actuality of a complaint or litigation can cause emotional, physical and behavioural changes in doctors, including practising defensively.

A recent study found 84.7% of doctors with a recent, and 79.9% of doctors with a past, complaint reported changing the way they practised medicine as a result of the complaint. This included “hedging” (e.g. over-investigation and overly cautious management, such as carrying out more tests than necessary, referring patients for second opinion more than necessary) and “avoidance behaviour” (e.g. stopping doing aspects of the job; not accepting high-risk patients to avoid possible complications; avoiding certain procedures).

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. Doctors with experience of a medico-legal matter had more negative attitudes towards their work and in their relationships with their patients. Many doctors describe having a medico-legal complaint as the most traumatic experience in their lives, even when the matter is resolved in their favour. The work-related factor that was associated the most with psychiatric morbidity was having a current medico-legal matter.

Most recently, in 2015, Bourne et al reported on a study of around 8000 doctors in the United Kingdom, finding that those who experienced professional complaints had a higher risk of anxiety and depression. 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.

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 higher levels of depression, anxiety and thoughts of self-harm.

The study also found that there were changes in behaviour of those who had not had a complaint, but who only observed a colleague experience a complaint. Bourne et al found that 72.7% of doctors with no previous complaints reported changing their practice after having observed a colleague’s experience of a complaint. 81.7% of doctors with no complaints reported “hedging”. 46.1% of doctors with no complaints reported “avoidance behaviour”.

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 is handled. If the process used in investigating a matter lacks transparency, timeliness and fairness, practitioners risk becoming the “second victim” in that process. This has a flow-on effect on the communities the doctors serve and ultimately, on patient safety. This may lead to the unintended result that the very system that aims to protect the public has the opposite effect.
Avant’s position

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Key links

Avant’s Health and Wellbeing website ‘Dealing with the stress of a claim or complaint’

Avant’s Health and Wellbeing website ‘Understanding the legal process’

Avant’s Health and Wellbeing website ‘Key support services’

Avant’s position paper on Handling professional conduct complaints against doctors
http://www.avant.org.au/complaints-handling

Avant’s Head of Advocacy, Georgie Haysom’s article The impact of complaints on doctors

References

5. Ibid.
7. Nash L et al. Perceived practice change in Australian doctors as a result of medico-legal concerns. MJA 2010; 193(10); 579-583.
11. Ibid.
12. Ibid.
14. Ibid.