

Doctors' health and medicolegal claims

An important but under-recognised link

Owen Bradfield

A MEDICOLEGAL CLAIM can be a doctor's most stressful life experience. For some, it can be more stressful than a relationship breakdown or the death of a close family member.¹ In the May 2023 issue of the *Australian Journal of General Practice*, I wrote about the impact of Australian Health Practitioner Regulation Agency (Ahpra) notifications on the health and wellbeing of doctors.² Although mandatory reporting results in some doctors accessing much-needed treatment and support, the regulatory process is often so overwhelming that it results in worsening health, or a relapse of pre-existing health problems. This is especially worrying when we consider that, earlier this year, Ahpra also released a report showing that 16 health practitioners died by suicide after being the subject of complaints between 2018 and 2021.³ The health implications of medicolegal claims are not limited to regulatory processes. Sued doctors are twice as likely to experience moderate-to-severe depression, anxiety or suicidal thoughts than doctors with no claim.⁴ This lasts for up to two years after the claim has concluded, regardless of its outcome.⁵ Even doctors who have not been sued identify the 'threat of litigation' as their most serious work-related stressor,⁶ and this is associated with doctors leaving the profession.⁷ To amplify the problem, claims against doctors are increasing, partly because patients are more aware of their rights⁸ and regulators are committed to 'strengthening the hand of patients and the public'.⁹

Access to medicolegal claims provides patients with an opportunity to seek

redress, answers and assurances that mistakes will not be repeated.¹⁰ This helps maintain accountability and professional standards. However, these goals need to be balanced against ensuring that processes are timely, fair and safe for doctors. The 2013 National Mental Health Survey of nearly 43,000 Australian doctors found higher rates of psychological distress, anxiety, depression and substance use challenges compared with the general population.¹¹ Doctors are more likely to continue working when sick, and often self-diagnose, self-treat and self-medicate.¹² Importantly, many doctors avoid seeking medical care for fear of loss of privacy or loss of registration as a result of mandatory reporting or other medicolegal processes.^{13,14} In my own conversations with unwell doctors subject to regulatory complaints, many told me that if they relapsed in the future, they would attempt to seek treatment overseas or anonymously because of low levels of trust in regulatory processes.¹⁵ Therefore, if we are serious about improving doctors' health, then we need to redesign medicolegal systems and processes to be more mindful of their impact on doctors. However, general practitioners (GPs) can also play an important role in reducing the risks and impacts of medicolegal claims on doctors.

Every doctor should have their own GP,¹⁶ one who is preferably not a close colleague.¹⁷ GPs can help overcome the stigma, shame and embarrassment that often prevents doctor-patients from accessing mental healthcare by openly discussing common mental health issues facing doctors. GPs are also ideally placed to recognise the preventive health needs of doctors and understand the challenging environments

in which they work and study. GPs can refer doctor-patients who are concerned about confidentiality when seeking healthcare to dedicated doctors' health programs, or to peer support networks, such as Drs4Drs (www.drs4drs.com.au/) or Hand-n-Hand (www.handnhand.org.au/). Details of doctors' health programs in each Australian state and territory are available on the Australasian Doctors' Health Network's website (<http://www.adhn.org.au/>). Medical defence organisations, professional colleges such as the Royal Australian College of General Practitioners and the Australian Medical Association also play a critical role in advocating for broader system reforms that ensure the experiences of doctors and the perspectives of the profession are considered when designing regulatory processes or considering law reform. Finally, education and learning activities that specifically target areas of medicolegal risk can help reduce the likelihood and severity of future medicolegal events, and that is an important aim of the current issue of the *Australian Journal of General Practice*.

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