

Solid Defence in Medical Practice

Reading time:

Jayson Nagpiing

Date created: 23/11/2020

Tags: [Case Studies](#) | [Medical Practitioner](#) | [Dental Practitioner](#) | [Dentist](#) | [Professionalism & Ethics](#)



Your best defence is a solid defence.

You can achieve this by meeting the professional standards, procedures and protocols of healthcare required of :

- your employer /hospital
- your College
- the Medical or Dental Board.

It is preferable that your deliver of healthcare is not divergent to that of peers.

Case study

A 52 year old female experienced rectal bleeding and right side abdominal pain. She was a smoker and the family had no history of bowel disease. Her GP referred her for open endoscopy at day surgery. It was a difficult procedure with poor visualisation due to poor bowel preparation. Two polyps were removed for biopsy.

Post operatively, there was immediate severe pain and a perforation was clinically suspected. The patient was immediately transferred to a hospital where a caecal perforation was identified and she underwent a right hemicolectomy.

The removed colon showed evidence of Crohn's disease and the patient recovered well with a promising prognosis.

Claim

A claim was lodged through the local complaints authority alleging ongoing pain, dependence on analgesic, that the incident is the cause of current hypertension, increased time off work/loss of income, increased medical expenses, a large uncomfortable scar and loss of 33cm of bowel.

Claim management

First and foremost the member promptly notified MIPS of the complaint.

As medical indemnity is a "claims made" policy, you are covered for claims made against you in the period of insurance and notified

to MIPS in the period of insurance.

Timely notification meant MIPS could appropriately consider the financial implications, obtain a copy of the patient records and review the healthcare provided in detail.

Assistance was provided in drafting an appropriate response to the various allegations made in the claim.

Outcome

In MIPS view the healthcare provided was appropriate. There was an informed consent including the risk of perforation, a consent form was signed and a RACS pamphlet provided with adequate written record of the consent process.

The practitioner was very experienced, performing colonoscopies for over 20 years and who practices in line with his craft group. This was an appropriate investigative procedure and the proper techniques were used. The adverse outcome was immediately identified and dealt with immediately and professionally. There was an open disclosure. The claimant is unlikely to meet the permanent physical impairment thresholds to litigate.

The complaint authority obtained an independent expert report which whilst ambivalent as to the healthcare provided was not critical in any technical sense that would in our view be evidence of a breach of the duty of care owed.

MIPS were not prepared to engage in discussion or conciliation of this claim. The claimant is possibly obtaining legal advice on the merits of pursuing the matter and may be a case of whether a "no win no fee" legal firm wishes to take the case.

How to create a solid defence

- Promptly notify MIPS of any adverse or unexpected outcome, complaint, claim or investigation.
 - The state of your records is of primary concern. It needs to be sufficiently detailed and contain consent details.
 - The level of healthcare provided when assessed by in house or by external experts needs to be in line with the usual professional standards, procedures and protocols of healthcare as required by your craft group, your College and or the Medical or Dental Board.
 - Keep up to date with contemporary practices.
 - The use of open disclosure as required by AHPRA is advisable.
-