DEALING WITH PATIENT COMPLAINTS

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Health Care Complaints Commission

How is health service provision regulated?

Health organisations
- Accreditation procedures
- Department of Health directives and policies for public facilities
- Health Care Complaints Commission
- Internal reviews (RCA, sentinel events etc.)

Health practitioners
- Peer review
- Registration Boards
- Health Care Complaints Commission
- Disciplinary forums
- Public opinion

The Commission’s role

- The Commission is an independent body dealing with complaints about health service providers in NSW.
- The Commission is a co-regulator with the Registration Boards through complaints process.
- The Boards also play a significant role regarding registration, performance assessment and impairment.
- The Commission deals with complaints through resolution options, investigation and prosecution.

Complaints received 2007-08

Issues raised in complaints received 2007-08

Type of treatment and communication issues

Issues raised in complaints from regional and rural areas compared to issues raised in all complaints received 2007-08

Total 3,126 complaints received raising 4,409 issues, 29% of these from regional or rural areas.
Type of access and professional conduct issues

Complaints assessment

What do we expect in the response of a provider?

When responding to a complaint:

- address the issues outlined in the complaint
- give the known clinical facts and explain them
- give evidence or support (e.g., from medical records)
- openly acknowledge, if something went wrong and apologise to the complainant, if appropriate
- state whether there was any attempt to resolve the complaint directly
- state whether your response can be provided to the complainant.

Assessment decisions 2007-08

Investigating complaints

The Commission investigates complaints that:

- Raise significant issues of public health or safety or significant questions as to the appropriate care provided.
- May prove gross negligence or unsatisfactory professional conduct.
Does the Commission determine clinical standards?

Standards of clinical practice are not determined by the Commission.

Expert advice in particular cases is provided by:

- Internal medical advisors during assessment of the complaint.
- Expert medical advisors in case of an investigation against a practitioner.

Complaints investigation

Role of the expert

The expert is to determine whether the conduct amounts to:

- Unsatisfactory professional conduct
  - significant lack of skill, care or judgement in the practice of medicine relative to the training and experience of the practitioner
  - other improper or unethical conduct.

- Professional misconduct
  - ‘unsatisfactory professional conduct of a sufficiently serious nature to justify suspension of the practitioner from practising medicine or the removal of the practitioner’s name from the register.’ ([Medical Practice Act])

Prosecuting complaints

Director of Proceedings

If the Investigation produces evidence of unsatisfactory professional conduct or professional misconduct:

- The Director of Proceedings independently determines whether or not to prosecute
- The Director of Proceedings chooses the appropriate forum for disciplinary actions and consults with the Medical Board.

Open disclosure

Open disclosure includes:

- a detailed account of what occurred
- an admission of fault, if applicable
- a ‘sincere’ expression of regret.

Why are health service providers reluctant to apologise?

- Fear of legal liability
- Damage of professional standing
  - Medical negligence
  - Disciplinary actions
- Do not know how to do it properly.

Protections against legal liability

Individuals

Civil Liability Act 2000 (NSW) provides:

- restrictions on medical negligence claims
- protection for apologies.
EXPERTS WANTED!

The Commission is looking for experts for its panel.

If you are interested, contact Rob Beetson on 9219 7593 or send an email to rbeetson@hccc.nsw.gov.au

Thank you!