MDA National
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Dealing with Complaints

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Why do patients complain?

Patient complaints reflect a patient's subjective impression of the care they have received. Complaints can occur in the absence of any error or adverse treatment outcome. Complaints are often associated with poor communication between a doctor and a patient or the patient's expectations not being met.

How frequent are patient complaints?

The receipt of a complaint is one of the most common reasons why doctors-in-training contact MDA National for advice, accounting for about one in five phone calls from them to MDA National. Nobody likes to be the subject of a complaint but, unfortunately, it is a fact of life for medical practitioners. Approximately one in 25 doctors receives a formal written complaint each year.

When viewed in the context of the number of services provided by doctors every year, few consultations result in a formal complaint, with less than one in 10 of these formal complaints progressing to any disciplinary action against the medical practitioner. These figures emphasise that while complaints against doctors are relatively frequent, formal disciplinary action against them is uncommon.

The complaints process

The majority of complaints against doctors-in-training are dealt with at a local level within the hospital and do not involve any disciplinary action against the doctor. All hospitals have complaints handling processes which, in general terms, will involve providing the doctor-in-training with a copy of the complaint and then asking for a verbal or written response (see case history 1). Usually, the provision of a response will bring the matter to a conclusion from the doctor's point of view.

However, from time to time doctors-in-training may become involved in a more formal complaint process before a health complaints entity, AHPRA or the Medical Board. This does not necessarily mean that the nature of the complaint is more serious, but may simply occur because the patient has elected to complain directly to these bodies, rather than to the hospital. In some instances the complainant may wish to take the complaint further after receiving a response from the hospital.

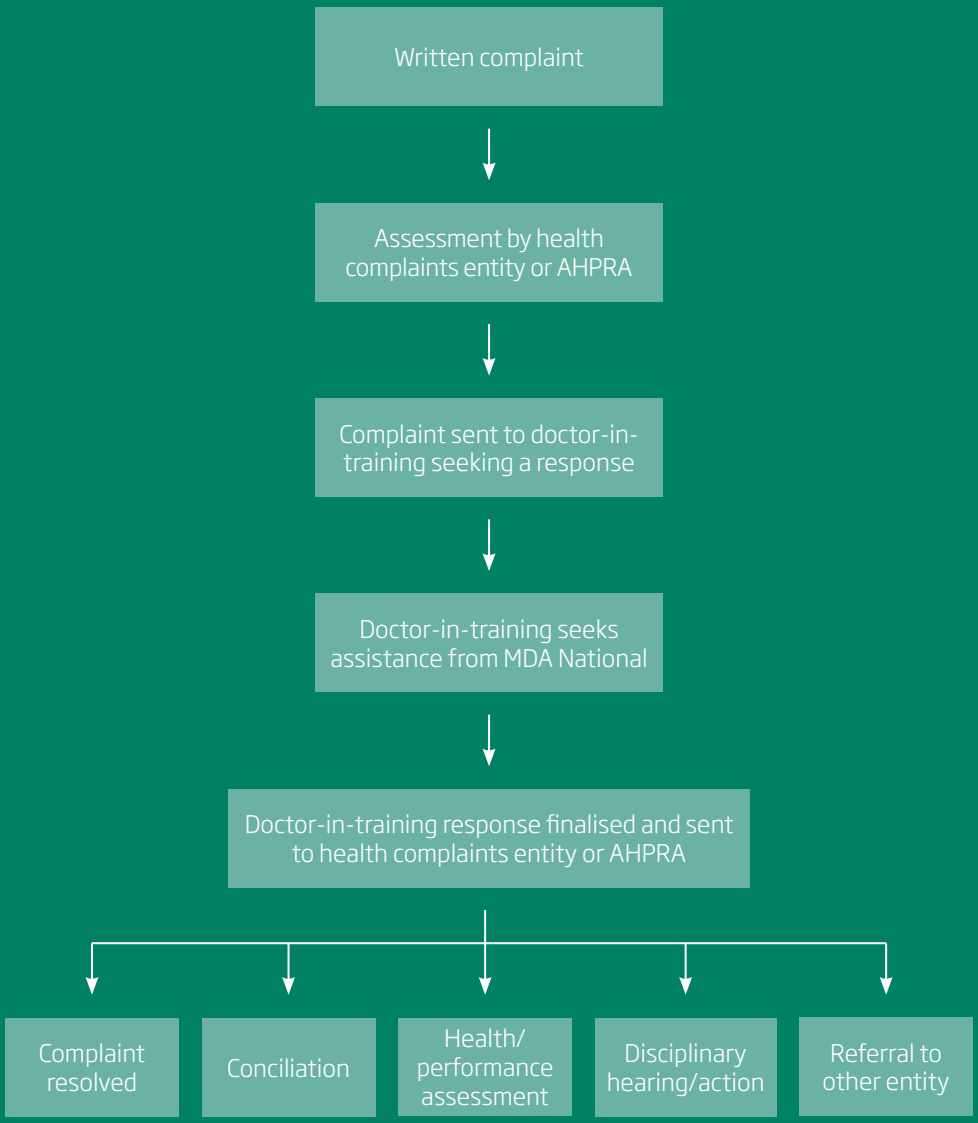
AHPRA and the various health complaints entities consult with one another when any complaint is received. The Medical Board maintains discipline within the medical profession and exercises a supervisory function to ensure that the conduct of registered doctors continues to meet the standards required by the profession. The Medical Board has a statutory duty to protect the interests of the public (see case history 2).

On receipt of a doctor's response to a complaint, a decision will be made as to whether to proceed further, including whether or not to investigate the matter. If a complaint suggests that a doctor has engaged in unprofessional conduct or the Medical Board is concerned regarding the clinical competence of a doctor, a hearing may be conducted and, if the complaint is proved, the Medical Board may decide on disciplinary action (see case history 3). Disciplinary action may include a reprimand or caution, undertakings or conditions on a doctor's registration or, in serious cases of professional misconduct, suspension or removal of the doctor's name from the medical register.

Health complaints entities in Australia

Australian Capital Territory	Health Services Commissioner
New South Wales	Health Care Complaints Commission
Northern Territory	Health and Community Services Complaints Commission
Queensland	Office of the Health Ombudsman
South Australia	Health and Community Services Complaints Commissioner
Tasmania	Health Complaints Commissioner
Victoria	Health Complaints Commissioner
Western Australia	Health and Disability Services Complaints Office

The complaints process



A pain in the...

Case history 1

A 58-year-old woman was admitted to hospital for excision of an anal fissure. Following her discharge from hospital the patient sent a letter of complaint to the hospital's complaints officer about the care she had received from the surgical team. The letter stated that the RMO was dismissive about her concerns regarding her planned discharge on day one post operation.

The patient had expressed concern about being discharged home because of her severe anal pain. She had asked the doctor to contact her daughter on her behalf to see if the daughter could move in with her for a few days, but the doctor had replied: "I am not your secretary. There's no reason why you can't go home alone." The patient said that she found the comment very upsetting and insulting.

The complaints officer sent a copy of the patient's letter of complaint to the doctor and asked him to provide a written response to the allegations. The doctor contacted MDA National for advice about how to respond. The doctor conceded that he had been very tired on the day in question (having worked an evening shift the day before) and he was, in fact, quite abrupt with the patient. The doctor said that he felt the patient was medically fit for discharge and was just malingering. He acknowledged that there was a "clash of personalities" between them. He confirmed that he had, in fact, refused to contact the patient's daughter and said that he was not a "secretary".

MDA National assisted the doctor in preparing a response which was then sent to the complaints officer. In the letter, the doctor apologised for his behaviour. He acknowledged that his communication with the patient could have been better. He concluded his letter by stating; "I apologise to Mrs Smith for my remark which was not appropriate. It is a doctor's duty to at all times be respectful in our interactions with our patients and I will learn from this experience". The doctor did not hear anything further about the complaint.

The case histories are based on actual medical negligence claims or medico-legal referrals; however certain facts have been omitted or changed by the author to ensure the anonymity of the parties involved.

Palpitations all around

Case history 2

A medical registrar was called to the emergency department (ED) to examine a 21-year-old woman who had presented to the ED with palpitations and a feeling of lightheadedness. The registrar reviewed the brief medical records and then went to see the patient.

The patient was sitting in bed wearing a hospital gown that was open at the front. The registrar drew the curtains around the bed and proceeded to take a full medical history. He then performed a routine cardiovascular examination. Following this examination, the registrar advised the patient that she was okay to go home.

The following day, the registrar received a phone call from the hospital advising him that the patient had made an allegation of indecent assault against him and that he was suspended from duty until the hospital had conducted an investigation into the allegations. The hospital asked the registrar to attend a meeting with the Director of the ED in order to provide a statement. At this point, the registrar contacted MDA National for advice. The following day, a medico-legal adviser met with the registrar. The registrar categorically denied the patient's allegations that he had indecently assaulted her by fondling her breasts. The registrar said that he had performed a full cardiovascular examination, including palpation of the apex beat and auscultation of the heart. Unfortunately, he had not documented the physical examination in detail in the medical records.

The medico-legal adviser attended the meeting with the registrar and the director of the ED. The registrar was subsequently reinstated but not until two anxious weeks had passed. However, the registrar's troubles were not over. The patient subsequently made a complaint to the Medical Board and a further investigation into the allegations ensued. Eventually, some fifteen months after the incident, the matter proceeded to a hearing. MDA National instructed a solicitor and barrister to represent the registrar at the hearing. The patient's evidence was inconsistent and the registrar presented well. Ultimately, the Medical Board found the registrar was not guilty of professional misconduct and the whole matter finally came to an end, but not without a considerable amount of anxiety and stress for the registrar. MDA National provided advice and support to the registrar during this time and also funded his legal fees which amounted to several thousand dollars.

Risk management strategies

Every year, MDA National deals with similar and potentially very serious allegations of sexual misconduct, usually involving male doctors-in-training and female patients. Often the matter could have been avoided if the doctor had informed the patient about the purpose and nature of the physical examination that they were about to perform and/or if the doctor had a chaperone present during the examination for more intimate examinations (including examinations of the breast, genitalia or rectum).

- Always explain to your patient the purpose and nature of any physical examination you intend to perform.
- Document your findings on the physical examination in the medical records.
- If you feel uncomfortable or concerned about examining a particular patient, do not do so without a chaperone being present.

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Beware the diabetic foot

Case history 3

In March 2016, a 47-year-old diabetic patient sent a complaint to AHPRA about the treatment he had received at a regional hospital. The patient had been admitted to hospital on 18 February 2016 for management of an ulcerated foot and cellulitis. His GP had referred him to hospital for antibiotic therapy and said that the ulcer may require debridement.

The patient was seen in the emergency department and admitted under the medical team. The patient complained that the Physician and his registrar had failed to examine his foot and to provide him with appropriate treatment. He complained that as a result of this "mismanagement", he had required an amputation of part of his foot.

AHPRA sent a copy of the patient's letter of complaint to the registrar and asked her to respond to the following issues:

- comment on the allegation that you did not personally inspect the patient's diabetic ulcer when you reviewed him on 18, 21, 22 and 23 February 2016; and
- explain why a referral to a Surgeon did not occur until 22 February 2016.

AHPRA enclosed a copy of the medical records with the complaint and asked the registrar to provide a response to the complaint within 21 days. The registrar contacted MDA National for advice on how to respond. The medico-legal adviser discussed the matter in detail with the registrar and then asked her to send a draft response to the complaint to MDA National for review. In the response, the registrar stated that she had, in fact, personally examined the ulcer on 18 February. Unfortunately there was no record of this examination in the medical records but there was evidence that the registrar had taken a swab of the ulcer on this date. The registrar noted that she was not on duty on 19 and 20 February. At review on 21 February she was with the consultant on a ward round. The patient was complaining of leg pain and the focus of the visit was on the possibility of a DVT.

The patient was referred for a Doppler examination. On 22 February the registrar examined the patient's ulcer and discussed the case with the consultant. The registrar then organised a surgical consult.

The medico-legal adviser assisted the registrar in finalising the response and this was then sent to AHPRA in April 2016.

In November 2016, the registrar received another letter from AHPRA stating that they proposed to commence disciplinary action against the registrar.

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The letter enclosed a report by an expert reviewer. The reviewer noted that the registrar's treatment of the patient fell below the standard of care required of a medical practitioner in that:

- her examination of the foot ulcer on 18 February 2016 should have been documented in the medical records; and
- given the patient's diabetic status, she should have personally inspected his foot ulcer on a daily basis.

The registrar was invited to make submissions on the proposed disciplinary action.

After discussion with the medico-legal adviser, the registrar provided a further response. In this letter, the registrar acknowledged that, ideally, the patient's ulcer should have been examined by her on a daily basis. She accepted that her medical notes were insufficient in relation to her review of the patient on 18 February in not recording her findings on examination of the ulcer. She noted that she had taken steps to improve her medical record keeping. She stated that the delay in referring the patient for surgical review was based on her mistaken belief at the time that diabetic ulcers evolved gradually, over weeks to months rather than days. She noted that since receipt of the complaint, she had extensively studied the treatment and complications of diabetes mellitus, including diabetic foot ulcers. She included the details of a number of lectures she had attended and papers she had read.

In February 2017, the registrar received a letter from AHPRA which enclosed a copy of the investigation report. The report noted that the registrar had acknowledged that in hindsight there were things she would do differently. These included better documentation and an earlier referral of the patient for surgical review. It was noted that the registrar had taken the complaint seriously and made appropriate changes to the way she practised. The report concluded that the registrar had demonstrated that her current practice will not pose a risk to public health and safety and that she had taken adequate steps to ensure such a situation would not occur in the future. AHPRA concluded that these comments should be considered by the registrar but that no further disciplinary action would be taken in the matter. Therefore, 11 months after receipt of the initial letter from AHPRA, the case was finally resolved.

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Tips on how to respond to complaints

If you do receive a complaint, there are some important steps you can take to try and ensure that the matter is resolved as soon as possible:

- Always seek advice from MDA National before responding to a complaint, no matter how trivial it appears to be.
- Respond to all complaints promptly – either verbally or in writing. Provision of a prompt response may lead to a quick resolution of the complaint and, as a result, less stress for the patient and you. A long delay in providing a response may result in the complainant's view becoming entrenched, and a perception that the complaint is not being taken seriously, often making the complaint more difficult to resolve.
- If responding to a complaint verbally, ensure the discussion is documented.
- The response is not the place to vent distress, frustration, or anger at the patient. The response is also not the place to criticise other doctors. Ensure a professional tone – even if the complainant does not. A defensive or offensive response will only inflame the situation and may encourage the complainant to take the matter further.
- Always carefully review a copy of the complaint and the relevant medical records before providing a response to a written complaint. If other members of the hospital staff are involved in the complaint, ensure that they are provided with a copy of the complaint and their response is sought. You should not provide a response on behalf of other staff members.
- If the complaint is from a relative or other source, ensure that the patient's confidentiality is not breached. In these circumstances, a verbal or written authority from the patient should be obtained before providing a response to the third party.
- In the response, express empathy for the patient's concerns or disappointments. You should try to put yourself in the patient's shoes and acknowledge the patient's feelings. It is often useful to include in the response the words used by the patient in their letter of complaint, e.g. "I am sorry you are upset…". This does not equate to an admission of liability, nor does it require the expression of guilt or wrongdoing.
- Address any misperceptions or inaccuracies expressed in the patient's letter by summarising the events as you know them. Be concise, but address each of the issues raised in the letter of complaint. It may be useful to summarise the events and then use headings to address the allegations or complaints not already answered in the summary of the events.
- If appropriate, advise the patient what steps have been taken to prevent a similar event from occurring in the future and thank the patient for bringing their concerns to your attention.
- Remember that you can obtain prompt support and expert advice from MDA National.

The effects of complaints on doctors

A study exploring the reactions of doctors to the receipt of a complaint described three stages:

1. **Initial impact** – involving feelings of shock, panic and a sense of indignation towards patients in general.
2. **Conflict** – involving feelings of anger and depression, doubts about clinical competence and conflicts with family and colleagues.
3. **Resolution**.[1]

Another survey of doctors who had received a complaint indicated that in the immediate period after receiving a complaint, most doctors experienced emotions including anger, depression, shame, guilt and reduced enjoyment in practising medicine. In the first few days and weeks after receiving a complaint, a doctor may need emotional support. Around one in three doctors reported reduced trust and sense of goodwill towards patients (other than the complainant), and reduction in tolerance of uncertainty and confidence in clinical practice. In the long term, the impact of a complaint softened – but feelings of persisting anger, reduction in trust of patients, and of reduced feelings of goodwill towards patients was reported.[2]

Emotional reactions to complaints

Coping strategies

The good news is that the vast majority of doctors do manage to deal with these reactions and reach a resolution of symptoms within a reasonable timeframe.

There are a number of useful strategies that you can use to counteract the stressful nature of a complaint:

1. Gaining understanding and control of the process

When you are involved in a complaint you are not in control. The processes are often unpredictable and may take many months to reach resolution. These factors can cause feelings of powerlessness. You should try and familiarise yourself with every aspect of the complaint process by:

- asking the MDA National medico-legal adviser to explain the processes
- reviewing any literature relevant to the case.

Being aware of the processes and how they operate should assist in providing you with realistic expectations of the process and the possible outcomes.

2. Making sense of the personal meaning of the complaint

Doctors-in-training who have been involved in a complaint often report a sense of shame and a belief that they are a "bad" or incompetent doctor. It is important to reflect on issues of competence and take steps to solidify your sense of professional competence.

If the matter involves a clinical decision, often a literature review from authoritative sources such as peer-reviewed journals can help to clarify standards of care. Doctors-in-training are typically part of a larger decision-making process that includes senior medical colleagues. They can be a great source of reassurance and comfort when things go wrong, offering their personal perspectives and clinical guidance.

It is important to be honest about the impact of the complaint at a personal level, and how this might affect work behaviour and decision-making processes immediately following a complaint. It is typical to feel personally responsible, regardless of the realities, and acknowledging this by talking to colleagues, family or friends allows for reflection. This gives you the opportunity to learn from the experience and potentially improve competencies for the future. Proper attention to managing feelings of anxiety and stress, such as taking time away from medicine to relax, and enjoy physical activity, is important.

Reflecting on the motivations of the complainant is also part of understanding the personal meaning of the complaint. Sometimes patients and their families find the only way they feel they can be heard is through a complaint process. There is often a less obvious, but equally relevant, story behind complaints that speaks to broader issues of care and the doctor–patient relationship, rather than just clinical competence.

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3. Gathering together the resources to cope

The ability to cope with stress is highly individual and you need to reflect upon your own means of coping. Due to both the physical and emotional impact that a complaint may have on you, it is important to have a treating GP and to maintain contact with that GP at this time. Self-observation is essential and medical help should be sought if somatic symptoms do not resolve promptly. You should never self-prescribe.

Utilising available social and professional supports is also vital. Doctors-in-training involved in a complaint generally need to share their reactions to the experience. A survey of Australian medical practitioners who had received a formal complaint found that 87% discussed the complaint with another person – 67% discussed the complaint with their spouse, 58% with a medical colleague, 31% with a non-medical colleague, 28% with a friend outside work and 20% with another family member.[3] You should identify those with whom you feel most comfortable in sharing your reactions, including family, friends, colleagues and the MDA National medico-legal adviser.

Additional support services

MDA National Doctors for Doctors Program

The aim of the Doctors for Doctors Program is to provide additional support to you, and enable you to share your experience with another medical practitioner during the course of a complaint or other investigation.

MDA National Professional Support Service

This service provides you with confidential access to a Psychiatrist who can give professional support to you during the course of a complaint or other investigation.

The Doctors for Doctors Program and Professional Support Service are available to MDA National Members at no cost. Please contact our Medico-legal Advisory Services team to discuss your needs and how to obtain access to these Member support services.

Doctors' Health Advisory Service (DHAS)

Every state and territory has a Doctors' Health Advisory Service (dhas.org.au) offering free 24-hour professional help to medical practitioners and their families. It is a confidential service which can be used anonymously.

Australian Capital Territory	02 9437 6552
New South Wales	02 9437 6552
Northern Territory	08 8366 0250
Queensland	07 3833 4352
South Australia	08 8366 0250
Tasmania	03 9280 8712
Victoria	03 9280 8712
Western Australia	08 9321 3098

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2 Cunningham W. The Immediate and Long-term Impact on New Zealand Doctors who Receive Patient Complaints. *N Z Med J* 2004; 117 (1198).

3 Nash L, Curtis B, Walton M et al. The Response of Doctors to a Formal Complaint. *Australasian Psychiatry* 2006; 14(3):246-250.

Find out more

For more information visit **mdanational.com.au** or contact **1800 011 255**.

MDA National's experienced medico-legal advisers provide accurate, empathetic and timely medico-legal advice, with access to our 24/7 service for urgent matters.

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