

Dealing with complaints against doctors (without causing further harm)

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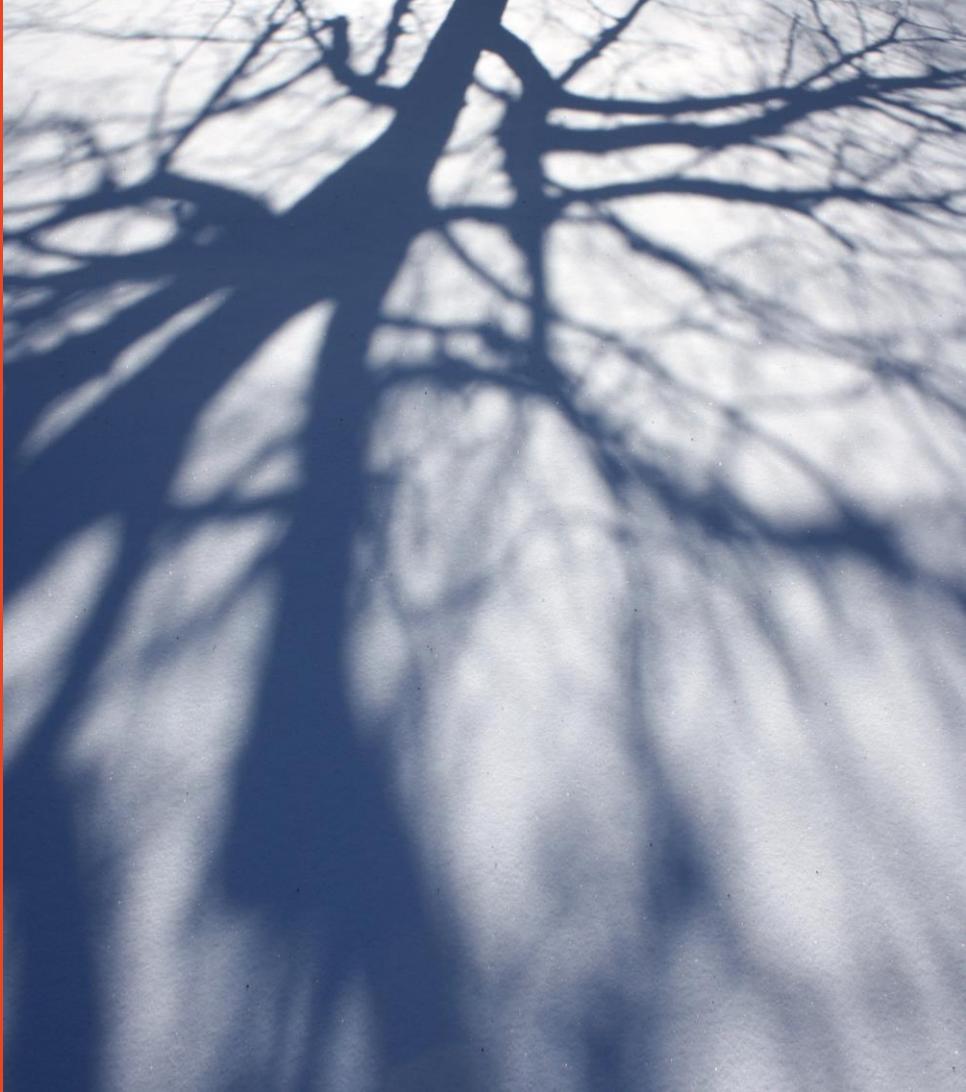
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The consequences of medico-legal matters for doctors

Professional: potential loss of career, livelihood, restrictions on practice, suspension, de-registration, reputation.

Personal: depression, anxiety, distress, anger, guilt, suicide, substance abuse, frustration, shame, loss of joy, confidence.

Changes in professional practice: improved systems, communication, or defensive practice; wanting to give up; or giving up.

My study

**The medico-legal
environment**

**Speaking with
doctors**



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Approach

Set against an examination of the present-day regulatory environment - its history, its mechanisms and its purpose - the study draws on the methods of narrative inquiry as a way of understanding doctors' experience of this environment.

(Frank, 1995; Kleinman, 1988; Josselson, 1995; Nelson, 2001, Clandinin, 2007 and others)

Under conditions of adversity, individuals often feel a pressing need to re-examine and re-fashion their personal narratives in an attempt to maintain a sense of identity.

(Bury, 2001, p. 264)

Understanding experience through narrative

Biographical disruption

There are parallels with other narratives (“the Illness Narratives”) that speak of the impact of a life-threatening event such as illness, accident or other crisis that disrupts not only one’s practical life but also threatens one’s sense of self, of identity, of how one’s life has changed because of the event and what followed.

The present is not what the past was supposed to lead to; the future is scarcely thinkable. (Frank, 1995, p.55)

How was a doctor’s career trajectory shaped by events, such as having a complaint, what did this mean at the time, what does it mean now, and what does it mean for the future?

Method

A qualitative interpretive study in two parts, using in-depth interviews to explore experiences and consequences of the medico-legal process.

1. “Doctors in trouble” or “DiTs” (17): experience, perceptions, getting through it, perspectives of the process
2. Experts (5): perceptions of doctors’ experience and the impact of medico-legal processes; perceptions of the process itself

Analysis

Large body of material including transcripts and notes, using a hybrid of various methods including framework analysis (Gale and others, and Ricoeur), and my interpretation of narrative theory.

Three stages:

1. “Broad sweep”, or “naïve interpretation” as per Ricoeur: key topics from each interview
2. Structural analysis: identifying common threads relating to the emergence of a plot for each interview, forming five main domains
3. Critical interpretation: drawing together the findings of each domain with the literature and the contextual background which formed the first half of the thesis

Findings: What was it like

An existential crisis; traumatising; overwhelming and distressing. It's just all covered by this big, black event, and over time it never goes away so you'll never be the same (Expert).

It was the most distressing thing that had ever happened in my career (DiT).

I was just painted so black that it was extremely confronting (DiT).

It's like walking down a highway full of pot holes (DiT).

What is the fear

I was really actually quite terrified, because even though you're a rational being, seeing something highly personalised like this, you have immediate images of losing your livelihood, losing your reputation. Um, what are colleagues going to think of you? Are you going to lose your private practice, because will the outcome of complaints be published? So, the risk of personal reputational loss is – the perception of that risk is very high, and the potential consequences of that, both in terms of income, livelihood, quality of life, standard of living, all of those kinds of things - you just see that vanishing out the window, instantly.

What is stressful about it

1. The threat to moral identity

The process:

- Focus on deficiencies, failures, breaches and misdeeds overtakes sense of worth, undermines confidence
- Focus on defence overtakes acknowledgement of the “person” behind the allegation
- The educational value of learning translates into defensiveness
- Fear for reputation is very real
- Feeling pre-judged as guilty
- Feeling the hurt and uncertainty

Shame: being blameworthy, being dangerous

There was a lot of shame attached to it and I think there is that feeling of there must be something wrong about me.

I thought that if anyone saw that I had an investigation underway, that they – my CV would immediately go into the round circular filing cabinet underneath the desk and that I'd be immediately branded as being bad.

Being painted as dangerous: I have all the ingredients of a low risk doctor.

What is stressful about it

2. The process is perceived as unfair

Is “procedural fairness” enough?

- Timeframes
- How are decisions made? Who is making them? On what basis?
- All complaints are treated equal
- When can I tell my side of the story (the real story)?
- I felt guilty and had to prove myself innocent: the law is supposed to assume the opposite
- Decision-making is so arbitrary
- A complaint should not make me a bad person. But I am treated as one.

A supportive environment

The study also demonstrates that when a doctor's sense of worthiness is threatened, what keeps their heads above water and mitigates the shock and shame is the collegiality of those around them to validate that they are ok, that feeling unnerved by the complaints process is normal.

I think the difference is when you're surrounded in a supportive environment, I think it gives you a lot of psychological resilience.

I got a call from the boss who was calling to see how I was, which was a big surprise, like, it's really lovely. It's really nice to see people take an interest in your wellbeing, because a lot of how you see yourself as a doctor is based on your terms of success, like treating patients well or having good outcomes.

Or not doing so well.....

Doctors who have been sidelined by their colleagues are those who become seriously unstuck.

No-one contacted me at all to see how I was, and I was devastated that, you know, people that I thought would actually offer some form of support were very keen to just wash their hands and walk out and not associate themselves.

What does this suggest?

If we view medicine as a vocation, a complaint goes to the core of a doctor's identity.

All doctors agree that there are some “bad” doctors out there, but they do not consider themselves to be one of them.

Yet a complaint casts a shadow of doubt over their own practice. Most said they still harbour such doubts, even if a complaint was not substantiated.

So then.....

- Being a “good doctor”, and being seen to be good, is important
- Being accused of not being a good doctor is very threatening
- Recovery is very hard, even years later.

It is not sufficient to blame the individual for not being resilient or of not coping.

One’s sense of “good self” is made up of personal attributes, aspirations and values. Others’ opinions are essential to success, acceptability and a sense of worthiness. When these are threatened, it can be damaging or even critical.

What do these conversations tell us?

1. We understand that the experience of a medico-legal matter can have adverse effects on doctors
2. Other studies show that anxious, depressed, distracted doctors can practise less safely, and that defensive medicine can be costly and unsafe
3. We now have some insight into how the process affects doctors and why they are adversely affected
4. This study provides some insight into what doctors experience when they are complained about. All doctors agreed there should be a robust system for managing complaints. But a complaint does not mean they are always blameworthy, wrong or bad.

“I used to love my work”

What many doctors need is validation that the profession (colleagues, peers, team members, administrators, managers) will not rush to judge, will acknowledge that the process is stressful and that they may need some human understanding and empathy even if they are guilty or are suspected of being so.

Most doctors are good or at least good enough. Even if they are not, how can the process better contribute to their restitution instead of diminishing them further?

What could be different?

1. Procedural: Addressing what is perceived as unfair

Questioning the highly legalistic approach to resolving complaints:

Less serious matters can be resolved more expeditiously
Proceedings more therapeutic, less adversarial

More informative communication:

Explaining the process; Being more neutral; How are decisions made, by whom, on what basis

Timeframes:

Consistent, reasonable, respectful

Equal rights:

The complainant has rights to be informed, be supported, believed. So do doctors.

Being worthy

2. Restoring doctors to “worthiness”: neutralising the threats

- The intellectual: reflections on how the incident could have been handled differently, and what led to the complaint
- The personal: addressing the fear, a supportive work environment, emotional support, validation of worth.

It matters.....

- Regardless of the seriousness of the matter, and the ultimate outcome, doctors' experience of the process has a negative impact on their performance, their wellbeing and sometimes their future.
- Therefore, the very processes that aim to protect the public are actually putting the public at further risk.

It could be different.....

Policy implications

- Regulators need to consider procedural changes to minimise anxiety caused by delays and inadequate communication.
- The process is perceived as adversarial due to the way complaints are handled. A re-think of the assumptions of current procedures is called for.
- The focus is on one's alleged deficiencies and on defence, while threats to moral identity are real yet silent. Many doctors do not seek support due to shame and fear for reputation. Restoration to a sense of worthiness is important, as is the opportunity for supported reflection and learning.

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