

The problem with communication ...

I am the Director of Proceedings at the Health and Disability Commissioner (HDC). Many of you will have never heard of me and have no idea what I do. That is probably a good thing, because I am a lawyer charged with taking proceedings against doctors (and other health professionals) whose practice has fallen significantly short of acceptable standards. I have been doing this job for two years now and happily only a very small number of the many cases that come through HDC are referred to me by the Commissioner.

When I was asked to write this, I thought about what useful advice I could provide to practitioners from being involved in this very sharp end of the HDC wedge. The cases that come to me are the very serious ones. They include both “conduct” cases (a euphemism for boundary crossing and/or inappropriate relationships with patients) and “competency” cases. It’s the latter that I want to focus on, because from my observation there is a common theme to competency cases that is thrown into sharp relief in a serious case and is certainly worthy of consideration by any practitioner reflecting on their own day to day practice.

As banal as it might seem, that common theme is communication, or rather the lack of it. The remainder of the quote in the heading of this article is - The problem with communication ... is the illusion that it has occurred (George Bernard Shaw). In my experience competency cases almost always arise in settings where there has been a failure to communicate adequately with a patient, a failure to communicate with other health professionals or sometimes a failure to simply write something down in the notes. Without exception, in the serious cases I have been involved in, it has become apparent to me that better communication could easily have provided a circuit breaker to the flawed clinical decision making at the centre of the particular case.

Clear communication provides opportunities to prevent mistakes from occurring in the first place. I know as a lawyer that I often have an instinctive response to a particular legal issue based on my previous experience. I also know that my initial response is not always right and that sometimes when I write that view down, or explain it to someone else, I come to realise through the process of explanation that I’ve incorrectly assumed something, I’m missing something or that the argument doesn’t quite hang together. Discussing it gives me the opportunity to gain insight to correct my initial mistake.

So I’ve often wondered if particular cases would have ended up on my desk if the practitioner in question had clearly explained his or her thinking to their patient and/or other health professionals. The patient might have corrected an assumption or asked a key question. Other health professionals involved in the care of that patient may have offered a different view or perhaps challenged a decision. Of course the usefulness of this feedback will depend on how willing the practitioner is to listen to their patient and/or take advice or feedback. It will also depend on how willing other health professionals are to provide input. I have been involved in cases where unfortunately a hierarchical approach to the relationships between health professions is firmly in place and those who consider themselves further up the hierarchy have not been receptive to input from those they perceive as further down.

And if communication (or the lack of it) is a key factor in cases of significant failure, it stands to reason that good communication has the potential to also impact in a positive way on the small

decisions you make in your practice every day. So, based on nothing more scientific than the opposite of what I have seen in my line of work, ask yourself these questions:

- Do I make assumptions about my patients?
- Do I give my patients enough explanation about diagnosis/treatment options?
- Do I know whether my patient feels comfortable asking me questions or understands what I am telling them?
- Do other health professionals provide feedback and/or challenge my decisions?

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