

Mandatory reporting of medical negligence

The NSW Parliamentary Committee on the Health Care Complaints Commission issued a report on this topic in November, 2000. The report favours mandatory reporting of medical negligence litigation. The findings in the report are summarised here.

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The Chairman, Geff Hunter MP in his forward said:
Quality assurance in our health system is paramount. It is erroneous to argue that litigation is somehow outside the general purview of quality of care. Medical negligence litigation is a clear indicator of consumer dissatisfaction with the health system and its nexus with adverse outcomes must surely be undistributed.

The committee noted the existence of a similar system in South Australia introduced on the initiative of the South Australian Branch of the AMA.

I have set out below a transcript of the summary of recommendations:

1. That, in the public interest, mandatory reporting of medical negligence litigation be introduced into New south Wales.
2. That the NSW District Court consider establishing a Professional Negligence List (Medical and Legal) in line with that established by the NSW Supreme Court.
3. That the *Health Care Complaints Act* (1993) be amended to require that de-identified data on claims filed, cases settled and cases adjudicated be made available to the Health Care Complaints Commission by indemnifiers and insurers covering medical practitioners, practising in the NSW health system, for the purpose of investigating the frequency, type and nature of allegations made in legal proceedings of malpractice by health practitioners, as set out at section 80(1)(j) of the *Health Care Complaints Act* 1993 (NSW).
4. That a working party be established of relevant stakeholders including representatives of major medical negligence litigation insurers and indemnifiers, relevant registration boards, health providers and the Health Care Complaints Commission to decide upon what de-identified data needs to be supplied to the Health Care Complaints Commission in order for it to most effectively carry out its Section 80(1)(j) objectives.
5. That the Health Care Complaints Commission establish a combined database of complaints and medical malpractice information for the purposes of providing information for risk assessment and quality assurance purposes to the NSW health system.
6. That the *Health Care Complaints Act* 1993 be amended to require that the Health Care Complaints Commission publish in its annual report summary data on the frequency, type and nature of allegations made in legal proceedings of malpractice by health practitioners.
7. That insurers be required to provide identified data on medical negligence litigation claims filed, cases settled and cases adjudicated to the Medical Board of NSW for the purpose of identifying matters of gross negligence, professional misconduct, unsatisfactory professional conduct and consistent sub-standard performance.
8. That a two-year pilot project be undertaken by the NSW Medical Board to assess the utility of data received regarding medical negligence litigation actions from insurers for identifying matters of gross negligence, professional misconduct, unsatisfactory professional conduct and consistent

sub-standard performance.

9. That the two-year pilot project by the NSW Medical Board be jointly funded by the NSW Medical Board and NSW Health.
10. That the NSW Medical Board confer with the Health Care Complaints Commission, in accordance with Section 49 of the *Medical Practice Act*, where it is of the opinion that a medical negligence litigation claim or case should be investigated, in accordance with Section 23 of the *Health Care Complaints Act* 1993.
11. That after initial assessment of a medical negligence litigation claim or case, if the NSW Medical Board has concerns about the performance of a medical practitioner, but which are not serious enough to warrant investigation under Section 23 of the *Health Care Complaints Act* 1993, that the NSW Medical Board deals with the matter in accordance with Section 50 of the *Medical Practice Act*.
12. That at the conclusion of the pilot project, the NSW Medical Board provide a report to the Minister for Health and the Joint Committee on the Health Care Complaints Commission. This Report should provide findings on the costs and benefits of mandatory reporting of medical negligence, whether the scheme should be extended to other health practitioners and providers and, where relevant, propose a model for the reporting and analysis of identified medical negligence litigation data. ■

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2nd Opinion

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