



CATHERINE HENRY PARTNERS

Health & Relationship Law

Medico-Legal Issues  
Commonly Affecting General  
Practitioners

Presented by Janine McIlwraith

# Case 1: The Role of the Practice Nurse

- o The plaintiff was the husband of the deceased
- o A claim for nervous shock
- o The defendant was a group of GPs trading as a clinic

## **Facts:**

- o The deceased was a patient for 16 years.
- o The deceased awoke at 8:30am and complained to the plaintiff of tingling in both arms from shoulders to wrists, coughing, cold sweats and vomiting.
- o The deceased telephoned the clinic twice – disconnected.
- o The deceased rang the surgery again and spoke to the clinic sister.
- o The clinic sister identified herself as the practice nurse.



# Case 1: The Role of the Practice Nurse

- o The practice nurse asked the deceased about her symptoms

The deceased said:

- o She had been quite ill since waking that morning;
- o She had asked to speak to her GP but was told he was with a patient;
- o She wanted to know if her GP thought she should attend the surgery although she was too ill to drive;
- o She requested her GP make a home visit after morning surgery at 10.45am;
- o She felt nauseated since waking and had been vomiting;
- o She had tingling sensations in both arms from shoulders to wrists;



# Case 1: The Role of the Practice Nurse

- o She had a persistent cough which felt like an object was stuck in the back of her throat and which could not be cleared;
- o She had used her asthma spray about an hour prior;
- o She had taken a Zantac tablet at 9am and had symptoms of indigestion, heart burn and felt bloated;
- o She did not eat or drink anything that morning;
- o She had Maxalon tablets at home;
- o She had been sweating.



# Case 1: The Role of the Practice Nurse

The practise nurse opined the deceased:

- o May be experiencing tingling sensations as a result of hyperventilating;
- o Should breath into a paper bag for 10 minutes;
- o Should take Maxalon;
- o Should lie down for a short period.
- o The deceased's husband should stay with her until she felt better.
- o Should ring back if she was not feeling better and the nurse would organise a consultation with the doctor for her.
- o Probably had a viral infection.



# Case 1: The Role of the Practice Nurse

- o At 10.05am the deceased took Maxalon, breathed into a paper bag and then lay down on her bed.
- o At about 12.20pm the deceased arose from bed, had a cup of tea and slice of toast, before vomiting.
- o She then suffered a myocardial infarction.
- o The plaintiff called an ambulance and began CPR.
- o The deceased was conveyed to hospital where she was placed on life support.
- o Life support was discontinued 5 days later and the deceased died.



# Case 1: The Role of the Practice Nurse

## Negligence:

The defendant GPs failed to ensure:

1. The practise nurse:
  - Consulted with a doctor regarding the deceased's symptoms
  - Advised the deceased to consult a doctor immediately
  - Advised the deceased to call an ambulance
  - Followed adequate and appropriate protocols in triaging
2. Had in place efficient protocols for the nurse to follow.
3. Had in place sufficient and efficient protocols for obtaining a history from patients and having that reviewed by a doctor.



# Case 1: The Role of the Practice Nurse

4. Have any practice policy manual containing protocols for the conduct of employees in dealing with or communicating with patients and patient enquiries.
5. Have in place any classification system for rating the priority of patient enquiry, or any procedure for action and the timing of same corresponding to each classification of priority.



# Case 2: Drug Interactions

- o Defendant was a GP
- o Plaintiff was a 38yo female, married with 3 children

## **Facts:**

- o The plaintiff first consulted the defendant 5 years before the incident – at which time the defendant took a history from the plaintiff which included a long standing history of depression and a number of family members also suffering depression.
- o Over that 5 year period the defendant treated the plaintiff for depression and prescribed antidepressant medication for her (Effexor and Xanax for anxiety).
- o After 5 years the plaintiff consulted the defendant for assistance to cease smoking – the defendant prescribed Champix.
- o The defendant advised the plaintiff there had been no warnings issued in relation to Champix but that she should contact him if she felt “weird.”
- o 1 week later the defendant wrote another script for Champix.
- o 1 week later the plaintiff attempted suicide.



# Case 2: Drug Interactions

## Negligence:

The defendant failed to:

- o Inform himself of the risks of Champix prior to prescribing it;
- o Warn the plaintiff of the risk of psychological and psychiatric effects including the onset of suicidal thoughts;
- o Warn the plaintiff that Champix had not been tested on people who had pre-existing psychiatric conditions;
- o Warn the plaintiff that there had been reports of worsening psychiatric illness for people who had taken Champix.



# Case 3: Failure to Follow-up

- o The plaintiff was a young female with no children
- o The defendant was her regular GP
- o The claim was also brought against the radiology practice concerned

## Facts:

- o The plaintiff consulted the defendant with a 6 day history of blood loss, requiring 4 full tampons per day, and pain in the right loin.
- o The defendant examined the plaintiff and noted tenderness over the right femoral canal, blood pressure of 99/55 and weight of 62kg.
- o The defendant gave the plaintiff advice regarding posture when in pain and coughing and prescribed microgynon 50ED.
- o 3 days later the plaintiff consulted the defendant again and informed the defendant that she had a positive home pregnancy test the day before.
- o The defendant examined the plaintiff and found BP 97/57 and PR 58.



# Case 3: Failure to Follow-up

- o The defendant considered the differential diagnosis to be a missed abortion, an incomplete abortion or an ectopic pregnancy.
- o The defendant referred the plaintiff for serum BHCG levels and pelvic ultrasound.
- o The plaintiff had the ultrasound the same day which was reported as showing an empty uterine cavity, no ectopic pregnancy and a trace of free fluid within the pouch of Douglas.
- o The sonographer advised the plaintiff that she had miscarried and there was no need to undergo the BHCG testing.
- o 13 days later the plaintiff suffered a ruptured ectopic pregnancy.



# Case 3: Failure to Follow-up

## Negligence:

- o Failed to advise the plaintiff that she must have both pelvic ultrasound and serum BHCG.
- o After receiving the ultrasound results:
  - Failed to ensure the plaintiff also underwent BHCG;
  - Failed to consider that the plaintiff required monitoring for qualitative BHCG levels and serial ultrasounds to determine if she had an ectopic pregnancy or other pathology such as tubal abortion.



# Case 4: Reasonable Care and Skill in Performing Venipuncture

- o Plaintiff was a young single male with no dependent children
- o Defendant was his regular GP

## **Facts:**

- o Plaintiff consulted the defendant for the purpose of having his blood taken for serum troponin testing.
- o The plaintiff informed the defendant that he had passed out following a previous venipuncture.
- o The defendant performed the venipuncture whilst the plaintiff was seated in a chair.



# Case 4: Reasonable Care and Skill in Performing Venipuncture

Following the venipuncture, the plaintiff:

- o Stood up and immediately sat down;
- o Experienced light headedness;
- o Lost consciousness;
- o Vomited;
- o Suffered faecal incontinence;
- o Suffered profuse sweating.
- o As a result of losing consciousness the plaintiff fell to the floor and hit the back of his head which resulted in permanent sensori-neural loss.



# Case 4: Reasonable Care and Skill in Performing Venipuncture

## Negligence:

- o Failing to recognise the plaintiff's history of post-venipuncture syncope.
- o Failing to place the plaintiff in a supine or semi-recumbent position prior to the venipuncture.
- o Failing to anticipate and prevent the fall by supporting the plaintiff after the venipuncture.

