

Young v Central Australian Aboriginal Congress Inc [2008] a general practice was found negligent in failing to follow up a patient who had been referred by a general practitioner for blood tests and also referred to a specialist within the practice for investigation of suspected ischaemic heart disease. When the patient failed to attend the appointment for a stress test, the practice did not follow up the patient due to a system-related error, where the medical record of another patient with the same name was reviewed. Interestingly, in this case the general practitioner who provided the patient with the referral for the investigations was found not to have been negligent because the court concluded the general practitioner had 'explained the potential seriousness of ischaemic heart disease and the importance of the follow-up appointments'. The court also found the patient had contributed to the outcome because he 'failed in his own interests to attend either the appointment or to ever raise the issue of these tests when he subsequently attended [the practice] for other unrelated conditions'. The compensation awarded was reduced by 50% to account for the patient's contributory negligence.⁵

Once a patient has been properly informed of their results and the management recommendations, it is

up to the patient to decide whether or not to follow this advice. The law recognises that there is legally effective informed consent, but also legally effective informed refusal.

So what does this mean for medical practitioners? The law does not impose a duty to ensure patients undergo all of the investigations a doctor has ordered. If the patient does undergo the recommended tests, then there is a duty on the doctor to review the results and consider what action, if any, is required. While there is some evidence that Australian medical practitioners order more tests as a result of medicolegal concerns,⁶ the key to minimising litigation related to investigations should involve attention to cognitive factors, such as ordering the correct investigations during the diagnostic process, and having rigorous recall systems to ensure the appropriate follow-up of patients and their test results.⁴ The importance of good communication to ensure the patient understands the reasons for, and the consequences of not, undertaking a recommended investigation and also how to obtain their investigation results cannot be overemphasised. Good documentation is also essential. ◀

Conflict of interest: none declared

REFERENCES

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Dental note

Diagnostic tests and litigation

General practice dentists in Australia usually undertake any diagnostic tests within the confines of their clinic and the results are immediately relayed to the patient. Simple vitality testing, percussion tests and intra-oral radiographs are usually sufficient for immediate diagnosis and treatment planning. Occasionally there is a need for further investigations, such as an orthopantomogram or cone-beam CT and conveying these results to patients should be done in a timely manner. When dentists order a test it is their responsibility to ensure that the result, with interpretation, is directly communicated to the patient. Of concern is our professional responsibility when

referring patients for further specialist investigation and care, particularly for the management of a potentially malignant oral lesion. On the one hand, there can be a failure in thoroughly examining patients and not recognising abnormalities. However, this can be greatly compounded if there is a lack of communication, emphasising the importance of the recommended referral and following up to ensure the patients proceed with our recommendations. Simple procedures for referral, communication with the specialist practice and documenting communication should not delay diagnosis which could adversely affect the outcome for the patient.

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