
ABSTRACT

The medico-legal process is a significant life event for medical practitioners that may cause psychological distress and physical morbidity. The medico-legal process, as experienced by New Zealand medical specialists, initiates stress levels that can be measured by the Impact of Event Scale (IES). For the purpose of this research a medico-legal process is limited to the Coroner's Court, Health and Disability Commissioner (HDC), the Medical Council of New Zealand and any Accident Compensation Corporation (ACC) complaints.

This research applies the transactional stress-strain-coping framework of Lazarus and Folkman (1984) and the optimum matching theory (Cutrona, 1990) to a national professional group. The *stressor* relates to a situation-specific (work-based) acute event entailing a **most trying/difficult medico-legal** situation. The moderators or *coping* resources of the stress-strain are cognitive appraisal (including primary and secondary appraisal of threat and control); social support; and coping strategy (problem-solving or emotion-based) in relation to the level of *distress*, as measured by the IES.

A self-administered questionnaire was sent to 1107 medical specialists who were members of seven participating specialist Colleges / Associations. The population sampled represented 39% of the registered medical specialists in New Zealand. The response was 118 reflecting a response rate of approximately 10%. Of the 118 returns, 56 (47.5 %) specialists had been involved in a medico-legal process in the last 10 years. This group provided data on the stresses and social support experienced by the specialist as a consequence of the medico-legal process.

Firstly, the study explored the perceived medico-legal stress of New Zealand specialists and how this was affected by the variables of gender, outcome, time to resolution, death of the patient, and cognitive appraisal. Secondly, the impact of the medico-legal process on the specialist's emotional and physical well-being was investigated, including partner relationships. Thirdly, the research looked into the types and sources of social support that were important to a specialist going through a medico-legal process and how satisfied they were with the support received. Fourthly, the study

identified human resource management interventions that may be useful to support specialists.

The study incorporated the Impact of Event scale (IES), which has been shown to be a valid and reliable instrument. The IES measures the two most common responses to stress which are: *avoidance*, defined as 'consciously recognised avoidance of certain ideas, feelings, or situations'; and *intrusion*, whereby 'ideas, images, feelings, or bad dreams are experienced'. The IES was used to assess the medico-legal distress level of the participating specialists, including the generation of 'Avoidance', 'Intrusion' subscales and Overall IES scores.

This study showed that the reported levels of stress of 55.4% of specialists was in the 'moderate to severe' range, and 30.4% were in the 'mild to moderate' range. Mean Overall IES scores were 28.8 (SD = 16.51). Thus specialists undergoing a medico-legal process were in the same range as two symptoms of post-traumatic stress disorder.

Forty six (86.8%) specialists reported a favourable outcome to the medico-legal process. Seven (13.2%) reported an unfavourable outcome. Those specialists with an unfavourable outcome had Overall IES scores that were slightly higher than those with a favourable outcome. However, there was no evidence of a relationship between perceived level of stress and outcome of the medico-legal process. Thus the medico-legal process is a stressful experience for medical specialists regardless of the final outcome.

The time taken to resolve the medico-legal situation was less than 24 months for 78.6% of specialists, and over 24 months for 17.9% of specialists. There was a positive relationship between the Avoidance IES score and resolution time, but not for the Overall IES score.

Only three (5.3%) specialists had a patient death and a Coroner's Court or Disciplinary Hearing. This is a small number for analysis.

There were 35 (62.5%) men and 21 (37.5%) female specialists included in the study. No evidence of any link between medico-legal stress level, as judged by IES score and gender was observed.

Thirty one (55.4%) specialists indicated that the threat of a medico-legal process to their professional identity and reputation was extreme. The specialist appraisal of

threat correlated with IES scores. Correlation was strong (p values less than .0005) between all three of the IES scores.

The strain of the medico-legal process on specialist well-being was significant. 12.7% agreed that the process had affected their physical health; while 23.6% perceived that the process had affected their emotional or mental health. Non-parametric correlation showed a correlation between IES distress levels and physical/psychological impacts (p values in the vicinity of .001).

There was a detrimental effect for 23.5% of specialists on spouse/ partnership relationships, but a constructive impact was noted in 23.2%. Changes to work practice were initiated by 26.8% specialists as a result of the medico-legal process.

The functional approach to support as defined by the *types* - emotional and instrumental (Thoits, 1995; House & Kahn, 1985) - were used to measure the importance and satisfaction of specialist social support from the 22 specific sources of support for NZ specialists. To assess whether or not the type and source of social support matched the *need* of the specialist, the Important-Performance Analysis (IPA) was used. This mapped the 22 support source attributes to a two-dimensional grid to generate four different suggestions to manage the situation being assessed.

Coping with the stress and strain of the medico-legal process necessitated emotional and instrumental support for the specialist. Overall, the 'spouse' and 'immediate colleagues' were the most important sources, although the 'Legal Counsel' and 'Specialist colleagues' were also highly ranked. Hospital management and human resources management were near the bottom of the rank for satisfaction in this context. The emotional support of 'immediate colleagues' was the only one out of the 22 source attributes where the satisfaction was less than the importance placed on this support source.

A gender difference was found regarding the importance of 'collegial support'. During a medico-legal process, no evidence was found to support the optimal matching theory of support.

Findings showed a positive relationship between the level of stress *and* the importance-satisfaction gap of five sources of *emotional* support and two sources of

instrumental support. This would suggest that improvements in social support from these sources may reduce the level of perceived stress.

This research would suggest that absenteeism is not an appropriate indicator of medico-legal stress for NZ medical specialists as only one specialist took stress leave and no specialists requested sick leave, yet the mean Overall IES score of 28.80 ($SD = 16.51$) is classified as 'moderate to severe distress'.

The specialists rated interventions - primary, secondary and tertiary - that would be useful as support during a medico-legal process. This provided the foundation for developing human resource management support strategies at three levels: national, organizational and individual.

The key 'primary' intervention at a national level is for medico-legal processes to be identified as a potential 'significant hazard', as defined by the HSE Act. The Ministry of Health, specialist Colleges and DHBs should all be aware that medico-legal processes cause specialist workplace stress and this has the potential for flow-on effects in the healthcare sector.

A feasibility study should be undertaken regarding the creation and funding of a 'Medical Practitioners' Wellness Unit' that would nationally prioritize, coordinate and evaluate research and interventions to improve the health and well-being of medical practitioners. This could incorporate the existing Doctors' Health Advisory Service.

This research has shown the importance of collegial emotional and instrumental support and the importance-satisfaction gap. The Council of Medical Colleges should consider the development of a training information package, including suggestions for emotional and instrumental support, which could be used nationally to assist specialists to understand what their colleagues are going through during a medico-legal process.

A systematic training / education of clinical directors in DHBs should be considered to assist the social support of colleagues and junior staff during medico-legal processes.

The findings from this study appear to support overseas' research showing that female specialists place a different importance on sources of social support, therefore gender differences need to be taken into account in any strategy development.

This study suggests that some simple changes to work design would be beneficial for specialists undergoing a medico-legal process. This would mean ensuring that: outpatient clinics are not overloaded, operating lists are not extended, after hours call work is monitored and scheduling of junior and nursing staff is appropriate prior to Coroner Court Inquests and other disciplinary hearings. Additional time and resourcing may be required to write medico-legal reports.

This research shows that the specialist's perception of the level of 'threat' of the medico-legal process is correlated with their level of distress. Thus, cognitive therapy may be an appropriate intervention to change the meaning / threat of the medico-legal situation.

The Importance-Performance Analysis of the emotional and instrumental support from legal counsel fell into the quadrant 'keep up the good work'. Overseas' research has shown that doctors want more information and training regarding the legal process and realities of being in a 'hearing / court' situation (Bark et al., 1997). This research appears to support these findings, as 91.2% of the sample rated 'information/coaching from legal counsel to prepare for proceedings' as being 'useful; very useful; extremely useful'. Notably, this was the highest rating out of the 20 suggestions for support and indicates the perceived importance of this form of support.

This research has shown that specialists do not easily take stress or sick leave for a medico-legal process, even though they may feel stressed. A strategy to remedy this problem would be for the union to negotiate with the DHBs a period of stress leave to be taken during a medico-legal process without the requirement of a 'mental' diagnosis from a medical practitioner.

Only 14.3% of specialists discussed the possible issue of stress with their employer. One of the reasons for not doing so was the 'concern about confidentiality'. These findings highlight a real need to ensure that there is an option for specialists going through a medico-legal process to easily access a free, appropriate and confidential, external counselling service. This counselling service needs to advise on how the medico-legal process can impact specialists' health and relationships, with strategies offered to minimize any harm.

As part of any national support and education strategy, specialists need to understand that counselling is an 'acceptable' form of social support for medico-legal stress. Counsellors, medical practitioners, and DHBs as employers should be aware of the possibility of PTSD symptoms that may arise from a medico-legal process.

The Council of Medical Colleges and the specialist Colleges should prepare an information and training package for spouses/partners, similar to that required for specialist colleagues, to assist in understanding reactions to medico-legal stress, with options for emotional and instrumental support.

This study has outlined human resource management strategies to support NZ medical specialists undergoing a medico-legal process. A revised framework is provided as a guide for future research on this topic.

The Council of Medical Colleges and Specialist Colleges should provide **leadership** in this important issue to implement some of the strategies outlined in this research. Identifying, assessing and managing specialist medico-legal stress should be undertaken in a framework that encompasses policies at a national level that will promote their implementation at the organisational and individual level (Dollard, 2001).

New Zealand has a no-fault, rehabilitation and compensation system for victims of medical misadventure since 1974. Tort liability for personal injury by accident was abolished in 1972. Thus, there is not a major immediate financial impact on New Zealand specialists as a result of a medico-legal process. However, this research has shown that there are other impacts and support issues for the NZ specialist workforce that have been poorly understood.