

VMO's Medicare billing, record-keeping, prescribing and patient care constitute professional misconduct



Key messages from the case

In this case, multiple concerns were raised about the practices of a VMO working in a regional area. The escalating sequence of events illustrates the risks to clinical practice, professionalism and patient care that can occur when practitioners become isolated.

It also illustrates the way the tribunals will consider a series of issues or pattern of behaviours, which may cumulatively give rise to a finding of professional misconduct.

Details of the decision

Medicare billing

Dr L had been previously investigated by the Professional Services Review and found to have been overcharging Medicare by billing Level C and Level D consultations despite not spending the required amount of time to permit this level of billing. He was required to make a repayment and was disqualified from claiming certain Medicare items for a period of 12 months.

It was alleged in the disciplinary tribunal that this conduct was a serious departure from the standard expected of the medical profession. Dr L claimed to have misunderstood the MBS requirements, but the tribunal did not accept this.

The tribunal considered that repeated and gross overbilling was improper and unethical and constituted a serious breach of the standards expected of the medical profession.

Record-keeping

The tribunal was also satisfied Dr L's record-keeping was inadequate and would not have enabled another practitioner to treat the patient. Dr L did not dispute his records were inadequate.

Communication

The tribunal considered multiple complaints about Dr L's communication including:

- Raising his voice and speaking rudely to a registered nurse when liaising about the next steps planned for a patient.
- Shouting and acting aggressively to a nurse in the presence of other patients
- Breaching confidentiality by discussing a patient's death with police officers in the presence of another patient, then discussing the death with another patient.

The tribunal found this behaviour amounted to unsatisfactory professional conduct.

Patient care / professional standards

A number of concerns were raised about Dr L's patient care. Issues included:

- inappropriately prescribing pethidine to a patient over a two-year period based on copies of old letters to her previous GPs, but without appropriate authority, or without seeking to have her reviewed by a pain specialist.

- failing to provide appropriate care to a patient whose hand had been severely burned. Dr L had not initiated a telehealth consultation with a burns specialist, or adhered to the hospital's Burn Transfer Guidelines. Dr L's clinical notes showed a relatively small burn, however contemporaneous photos taken by the nurses on duty showed a much larger and more severe burn. The tribunal considered Dr L had tried to minimise the extent and seriousness of the burn.
- declining to attend a call-out for seriously unwell patient because he was ill himself, rather than explaining he was unwell and arranging cover.
- failing to follow up or appropriately refer a child for assessment after a quad bike fall.

The tribunal found Dr L's patient care and prescribing practices were all significantly below the expected standard of a medical practitioner and amounted to unsatisfactory professional conduct.

Outcome

Cumulatively the tribunal found Dr L's behaviours were of such a serious nature to find him guilty of unprofessional conduct. The tribunal noted Dr L's lack of insight and remorse and that he had not taken any genuine steps before the tribunal hearing to engage in courses or further education.

Dr L was unregistered at the time of the hearing. The tribunal determined if he had been registered at the time, it would have ordered his registration be cancelled. He was disqualified from seeking registration for 12 months and ordered to pay 80% of the regulator's legal costs associated with bringing the matter to the tribunal.

Key lessons

Repeated and gross overbilling may be seen as improper and unethical and a breach of the Medical Board's *Good medical practice: a code of conduct for doctors in Australia*. As well as resulting in requirements to repay Medicare, it may also lead to findings of professional misconduct and regulatory action.

Being rude and aggressive in communication with colleagues is unprofessional and may be regarded as unsatisfactory professional conduct.

Be alert to the dangers of isolation. It is important to manage your own health. Failing to do so and being rude, careless or taking shortcuts can put patients at risk and will be taken seriously by regulators.

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