

Ensuring continuity of care and managing patients who do not follow treatment recommendations



Key messages from the case

Managing a patient who does not follow treatment recommendations is a challenge many doctors face.

This challenge can be made more difficult if the doctor does not have sole or ongoing care of the patient, as this case illustrates.

Details of the decision

Over the course of 10 years, Mr E, who had a history of Hepatitis C, was treated by at least six GPs in a suburban medical practice for a range of conditions including diabetes and hypertension. At the end of this period, he was diagnosed with Stage 4 chronic kidney disease.

He claimed compensation against all GPs involved in his care, alleging they had failed to properly manage his diabetes and hypertension over various periods, including failure to refer him to a renal specialist resulting in chronic renal disease and depression.

Treatment and follow-up

Mr E first saw Dr 1 who sent him for blood and urine tests, which revealed type 2 diabetes. Dr 2 started Mr E on medication and referred him to an endocrinologist, but the patient did not pursue the referral.

Over the course of several years, various doctors at the clinic noted his diagnosis and that Mr E was only partially adherent to the medication treatment plan. They reinforced the importance of managing his condition, encouraged him to take his medication and referred him to a diabetes clinic. Mr E did not attend the clinic.

Eventually Mr E did follow up on a referral to an endocrinologist who considered, amongst other things, that Mr E's blood pressure needed to be monitored. Doctors at the clinic arranged for further blood tests and checks of his blood pressure.

Dr 6 became Mr E's primary doctor and as Mr E's blood pressure began to increase this became the focus of treatment.

Eventually Mr E went to another GP practice and was later diagnosed with Stage 4 chronic kidney disease.

Duty of care and causation

The case against all the doctors except Dr 6 was settled before the case was heard, so the case only proceeded against Dr 6.

Mr E alleged that Dr 6 had failed to refer Mr E to a specialist and that due to his management, there had been a failure to slow the progression of renal disease.

Expert evidence supported the doctor's argument that he had not breached his duty of care, and the court found that there was no evidence to support an earlier referral.

The experts agreed that Mr E was non-compliant with medication and in attending referrals, and agreed that

Mr E's clinical course would not have been altered had any different medical care been provided, including earlier referral to specialists.

The court concluded that even had Dr 6 referred Mr E earlier, any difference in outcome would have been negligible. Given his history of failure to follow up referrals to specialists and non-compliance with medication, the court was not convinced Mr E would have been willing to attend an earlier referred appointment in any event.

Outcome

The Court found that Dr 6 was not negligent in his treatment of Mr E.

Key lessons

A patient's non-acceptance of recommended treatment does not discharge a practitioner's duty to ensure they receive adequate care. However, all treatment recommendations and the patient's failure to follow those recommendations should be clearly documented.

If you believe a patient is not taking their medications, or following your recommendations for referral or other investigations, discuss with them the importance of doing so, including the implications for them if they do not follow your advice. Document any discussions you have with the patient about these issues.

If appropriate, consider other steps such as:

- providing the patient additional information to read and document this in the records
- recommending the patient seek a second opinion
- discussing other reasonable alternative management plans where appropriate
- seeking permission to involve family members in the treatment discussion.

Take particular care with your medical record. Ensure you record the advice given, frank discussions you had about the importance of undertaking the recommended treatment and the likely consequences of failing to do so at each visit.

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