

Consent-related claims

Insights to reduce risk

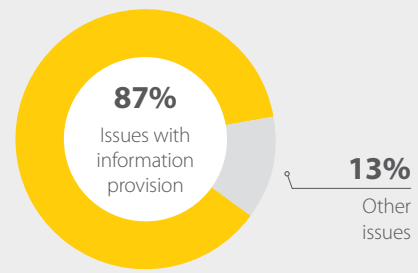
Key learnings

- A good consent process involves a conversation with a patient who is listened to, understands the information given to them (especially about risks), has their concerns addressed, shares in treatment decisions and feels informed.
- Consent is not only required for procedures. It is important to obtain consent (whether written or verbal) for other elements of care including physical examinations, costs and some non-procedural treatments (e.g. medication).
- Consent discussions and the information provided to the patient should be thoroughly documented in your patient records. This could be key to demonstrating that you met the expected standard of care.

1 in 10 claims involved consent

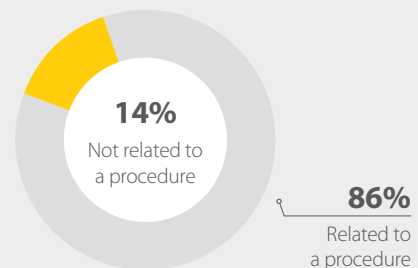
Unclear or insufficient information were the main issues

- The most common issue was patients receiving inadequate information and/or not feeling fully informed. This especially applied to risks of a procedure/treatment, along with its purpose, benefits and approach.
- Other issues included capacity to consent and the doctor's manner of communication (e.g. using jargon, not using an interpreter).



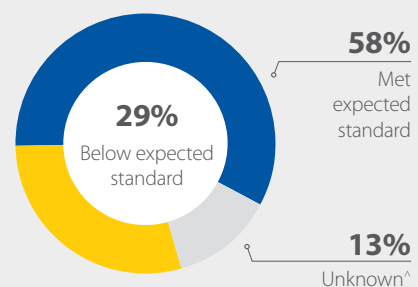
Claims were not only about procedures

- Most but not all claims involving consent related to a procedure.
- Other claims involved consent for physical examination, adequacy of information about medication risks and financial consent.



In almost a third of claims, care was assessed as below standard

- Following a claim, a medico-legal evaluation is undertaken to assess whether expected standards of care were met.
- The doctors' consent process was assessed as not meeting expected standards in almost one third of claims involving consent.



[^]Unknown[^] is used when the standard was not assessed or the final assessment report was unavailable.

See back page for more about this analysis.

More about this analysis

This report is based on our analysis of the underlying themes in 5,640 claims for Avant member doctors from all specialties, including complaints to regulators and compensation claims finalised between July 2016 and June 2018.

Claims involving consent were classified as those for which an issue with consent was the main or contributing factor.

For any queries please contact us at research@avant.org.au

Member resources

For articles, factsheets, case studies and other resources on a range of topics, including consent, visit the Avant Learning Centre at avant.org.au/avant-learning-centre

IMPORTANT: Avant routinely codes information collected in the course of assisting member doctors in medico-legal matters into a standardised, deidentified dataset. This retrospective analysis was conducted using this dataset. The findings represent the experience of these doctors in the period of time specified, which may not reflect the experience of all doctors in Australia. This publication is not comprehensive and does not constitute legal or medical advice. You should seek legal or other professional advice before relying on any content, and practise proper clinical decision-making with regard to the individual circumstances. Persons implementing any recommendations contained in this publication must exercise their own independent skill or judgement or seek appropriate professional advice relevant to their own particular practice. Compliance with any recommendations will not in any way guarantee discharge of the duty of care owed to patients and others coming into contact with the health professional or practice. Avant is not responsible to you or anyone else for any loss suffered in connection with the use of this information. Information is only current at the date initially published (August 2019). © Avant Mutual Group Limited 2019. MJN-102 08/19 (1124-1)

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