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Anaesthesiologists, fees and complaints to the Health Professions Council of South Africa

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Abstract

Anaesthesiologists are reputedly the most complained about single speciality to the Health Professions Council of South Africa (HSPCA). The majority of complaints include unhappiness with either the consent process itself or involve the amount that the patient was charged and how the patient felt that there was inadequate disclosure during the consent process on the financial aspects pertaining to the procedure. The question is asked if anaesthesiologists are over-represented, and if so, are there potentially any reasons why anaesthesiologists as a group are more vulnerable to criticism? The South African Society of Anaesthesiologists and the Medical Protection Society are working on ways of diminishing the risk of complaints to the HSPCA about anaesthesiologists. However, in doing so, it is important to reflect upon the factors which may play a role.

Keywords: complaints, HPCSA, consent, anaesthesiologists

Introduction

Does the Health Professions Council of South Africa (HPCSA) receive more complaints about anaesthesiologists than any other speciality, and if they do, are these complaints mainly restricted to billing issues, i.e. relating to the financial consent process or costs? Although disputed, and subsequently corrected, the South African Broadcasting Corporation reported that anaesthesiologists were the worst offenders when it came to overcharging.[1,2] Clearly, both the HPCSA and anaesthesiologists are concerned, following a meeting between the chairs of the HPCSA's preliminary committees and a delegation from the South African Society of Anaesthesiologists (SASA).

If the HPCSA is receiving more complaints against anaesthesiologists than those received for any other speciality, particularly with regard to billing, could the higher numbers be justified? Anaesthesiologists are the largest group of specialists. One in eight specialists is an anaesthesiologist. So do anaesthesiologists attract statistically significantly more than one eighth of the complaints about specialists that are made to the HPCSA?[3] If they do, what are the statistics? In the UK, general practice, psychiatry and surgery were proportionally over-represented as recipients of complaints.[4] Interestingly, also in the UK, anaesthesiologists were under-represented with respect to complaints to the regulator. One in 120 anaesthesiologists was reported to the regulator in 2009 (95% confidence interval of one in 100-145).[5]

Looking at the numbers, if each private anaesthesiologist in South Africa in the country performs roughly 1 000 anaesthetics a year, then that alone would translate to a minimum of a million procedures annually, almost doubtless an underestimation. With numbers like that, regulators would have to accept that there will be complaints. Do complaints, particularly billing disputes, extend beyond the projectable? While purists may wish to argue that there is no acceptable rate of complaints, realists will accept that given the numbers, complaints will occur. If we deem one complaint per 10 000 procedures to be acceptable, then 100 complaints per million procedures should be anticipated. If the complaint rate exceeds the projections, do other issues come into play? This can only be speculated on, but by identifying the issues, the problem, if there is one, can be approached more logically.

Does patient ignorance play a role? Most private patients appreciate that they will be billed by the surgeon and the hospital. They accept that the surgeon renders a service and that the hospital renders the facility, including the operating theatre. The role of the assistant and the anaesthesiologist may be less well understood. An independent bill from either is less anticipated. The role of the anaesthesiologist is poorly understood, even in developed countries. Unfortunately, published statistics on South African patients' understanding of the anaesthesiologist's role are not available.[6] If a large percentage of patients do not realise that an anaesthesiologist is a doctor, then it is not unreasonable to assume that those patients will expect the anaesthesiologist's service to be included in the facility bill. For example, they do not pay independently for the services of the theatre sister.

A patient's unhappiness at the anaesthesiologist's bill may be further compounded by his or her ignorance of medical aid benefits. You need to be fairly astute to realise that a medical aid does not necessarily pay for all of the costs when accessing its website to obtain details of its hospital plan. The websites are not disingenuous as they are clear that they cover the scheme's fees. Many patients do not appreciate this qualification. Some are

unaware of the gap between what some schemes pay and what anaesthesiologists charge. It is hardly surprising that patients may be confused at what a medical practitioner is allowed to charge for services rendered as currently there is no comparator.[1]

So place yourself in the patient's shoes. Your anxiety about the procedure is relegated to the past, your operation was a success and you are busy recuperating. Now the bills start to arrive. Despite your hospital plan, you are expected to make additional payments to the hospital and the surgeon. You may write to the hospital, but may be more reluctant to complain to the surgeon because the surgery was a success, and you may be dependent on the surgeon in the future. You pay the excess, albeit somewhat reluctantly. You are irritated, but there is something that irritates you more: the bill from the anaesthesiologist.

Who is this interloper? You didn't even realise that he or she was a doctor. You didn't understand that he or she was rendering an independent service for which you would have to pay. You thought that it would be included in the hospital bill. After all, the hospital billed you for the anaesthetic agents. To add insult to injury, your medical aid only covers a fraction of the cost, and it is virtually impossible to ascertain what constitutes a reasonable fee from an anesthesiologist.[1] You recollect having met the anaesthesiologist, and indeed accept that there was a consultation and that fees were discussed, but being ignorant of the anaesthesiologist's involvement, you feel that the fee is exorbitant. Indeed, based on the way that anaesthesiologists bill, the anaesthetic fee may have exceeded that of the surgeon. You hardly have a relationship with this individual, you don't understand his or her involvement in the case, and you are unlikely to see him or her again. You are angry about what you have to pay. It's time to complain. Who better than about the anaesthesiologist?

The need for informed consent, including procedural costs, for an anaesthetic is mandatory and beyond dispute.[7-9] The consent process is well described in the local anaesthetic literature, although the issue of consent for costing is not well covered locally.[10,11] Over 80% of surgical patients are now same-day admissions.[12] Is it possible for an anaesthesiologist, during a brief preoperative visit, when the primary goal is to ensure patient safety during the anaesthetic, to be exemplary in his explanation of the bill and in overcoming the patient's naivety? Surely, we cannot anticipate that we will always be successful. While there is little doubt that anaesthesiologists must do their best to reduce complaints, it would be unrealistic to expect us to always be successful.

If the majority of complaints against anaesthesiologists pertain to overbilling, then this may lead to problems for both the HPCSA and anaesthesiologists. In the absence of any pricing reference or ethical tariff, the HPCSA has no standard against which to measure what an anaesthesiologist has charged, and whether or not it is excessive. The problem for anaesthesiologists is that the only way that the HPCSA is able to prosecute a doctor in a case in which there is a billing dispute would be if the informed consent process was found to be wanting in terms of the National Health Act, the Consumer Protection Act or the HPCSA's ethical rules of conduct.[7-9]

Anaesthesiologists need to be cognisant of the risks and the inherent circumstances. Consent, including financial consent, is important. Both the SASA and the MPS are working on ways to resolve the issue. Ultimately though, resolution lies in the hands of those involved. Consent, including financial consent, needs to be taken seriously. Steps have to be taken to ensure that in all cases, possibly with the exception of emergent cases, that the nuances of consent and costs are raised with patients well in advance of the anaesthetic procedure, if possible.

In guiding the profession, it might be useful for the HPCSA to supply more information on the complaints that are being made against registrants. Doctors need to know how many complaints are being made against fellow doctors, and the nature thereof. Is a particular group of doctors over-represented, and is it the target of particular criticism? Once a particular group becomes aware of a common thread, then something can be carried out to address the problem, thus protecting the public.

Conflict of interest

Graham Howarth is a full-time, medico-legal advisor who works for the MPS. Dirk van Zijl is Vice President of SASA.

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