

Medico –legal aspects of dermatology treatment in primary care

22nd November 2023

Majid Hassan
Partner, Claims

Key points to cover

- Legal tests
- Dermatology case studies
- What role might AI play and what challenges
- How to prevent litigation or successfully defend claims as they arise

Legal Test Breach of Duty

- Legal burden lies on the Claimant to prove on balance of probabilities
- **Bolam v Friern Hospital Management Committee [1957] 1 WLR 582 –**
 - “...whether the defendants, in acting the way they did, were acting in accordance with a practice of competent respected professional opinion.”
 - “...not guilty of negligence if he has acted in accordance with a practice accepted as proper by a responsible body of medical men skilled in that particular art”
- **Bolitho v City and Hackney Health Authority [1998] AC 232**
 - Professional opinion must be able to withstand logical analysis

Legal Test

Breach of Duty

■ *Maynard v West Midlands Regional Health Authority [1984] 1 WLR 634*

- *Preference for one expert over another – not sufficient to establish negligence*
 - *Failure to exercise ordinary skill of a doctor is necessary*
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- Ultimately:
 - Did the Defendant's actions fall below the standard of care – are their actions supported by a responsible body of medical opinion?
 - Does the opinion withstand logical analysis?
 - Rare exceptions where Court can disagree with professional practice.

Hindsight

- **What part does hindsight play in the Court's assessment?**

- None

- Facts – knowledge and facts known or should have known at the time

- Body of professional opinion at the time – Guidelines

- Rare exception where Court disagrees with professional opinion.

Common type of claims

- Malignant melanoma- delay in diagnosis
- Topical steroids- long exposure to these
- Psoriasis- failure to monitor despite treatment.
- Eczema- overuse of topical steroids

Case study: Malignant melanoma

- Claimant's wife saw her GP re mole on skin
- Referred for private dermatology review
- Dermatologist noted no worrying features but asked for referral back at 12 months.
- During that time patient changed GP surgery before returning; surgery changed computer system; dermatologist had retired
- No referral made at 12 months; delay in diagnosis resulted in claimant's wife contracting skin cancer and death with 2 years
- Claim settled on a 50:50 basis between GP and dermatologist

Case study: Necrotising Fascitis

- Alleged failure to refer homeless drug addict to hospital for abscess following missed injection
- Differential diagnosis – haematoma or abscess
- Claimant not referred on basis it was a hematoma, no temperature, not red or hot & safety-netted.
- Claimant developed NF – subsequently underwent an amputation
- Split trial – issue of Breach of Duty only
- Claim failed- detailed note from practice nurse and GP recording findings was accepted by trial judge

Case study: Topical steroids

- Claimant commenced on “Dermovate” and prescription continued over a 4 year period resulting in admission to hospital with convulsion thought to be due to Addisonian crisis.
- Claimant prescribed various corticosteroids including “Betnovate” and prednisolone for eczema over a number of years since age of 18 months. Prescription started by private dermatologist and continued via GP. Caused damage to skin.

Benefits of AI

- Improved access for patients
- Remote monitoring and management
- Address workforce issues within NHS
- Access to large database of research
- Able to analyse all studies and papers on management and treatment recommendations

Potential risks with AI

- Algorithm bias
- What if AI isn't used
- What training has been given on use of AI
- Are we working in conjunction with AI

Reducing litigation risk

- Document differential diagnosis
- Record features including:
 - *Symptoms*
 - *Examination findings*
- Explain diagnosis and findings
- Plan treatment and follow up review
- Be clear / straightforward in descriptions – for other clinicians just as much as anyone else
- If follow-up required – explain what actions patients needs to take and timeframe and what ‘worse’ means
- Explain any acronyms
- Record safety-netting

Thank you

