

Patient complaints allege doctors fail to disclose risks

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In more than 70 per cent of legal disputes over informed consent, patients allege the doctor failed to properly explain the risks of complications, a University of Melbourne study published in the latest *Medical Journal of Australia* has found.

Professor David Studdert from the Melbourne School of [Population Health](#) and Melbourne Law School and co-authors reviewed nearly 2000 negligence claims against doctors insured by Avant Mutual Group Limited and complaints lodged with the Health Services Commissioner of Victoria between January 2002 and December 2008.

The authors found that in 71 per cent of these cases the primary allegation was that the doctor, most often a surgeon, failed to mention or properly explain risks of complications.

"This is the first study to investigate in a real-world setting what happens when [informed consent](#) goes poorly from the patient's perspective," Professor Studdert said.

More than 92 per cent of cases involved surgical procedures and 16 per cent involved cosmetic procedures. Patients' concerns about problems in the informed consent process sat alongside concerns about other aspects of care in about half the cases.

Five treatment types accounted for almost 50 per cent of the total cases. These were surgical procedures on [reproductive organs](#), the face, breast,

eyes and side effects of [prescription medications](#).

Plastic surgeons experienced complaint rates that were more than twice those of any other specialty or subspecialty group.

Lead author, neurosurgical registrar Dr Andrew Gogos, said the problem was communication. "In my experience, most doctors feel that they adequately discuss the risks of a procedure as part of their practice. Our findings show that our patients do not always share this view."

"The typical dispute over informed consent involves an operation and relates to the adequacy of explanations about risks of a particular complication. The complication may be anything from the risk of infection, pain or scarring, paralysis, even death." Dr Gogos said.

"With cosmetic surgery, patients are typically healthy going into the procedure and their expectations of a positive outcome tend to be very high. This causes them to worry about even small risks.

Professor Studdert said improved understanding of these situations would help to spotlight areas of care in which there is a gap between what doctors talk about and what [patients](#) want to hear.

"With Australian courts now looking to patient preferences for setting legal standards for medical risk disclosure, studies of medico-legal disputes can provide valuable insights."

"Much more can be learned about how to improve medical care from close analysis of disputes over preventable events," he said.

Provided by University of Melbourne

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