

**When discharging a patient at scene can  
lead to a claim of clinical negligence.**

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Expert Witness

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# Discharging patients – a risky business

- Leaving patients at home is easy.
- Leaving patients at home safely is complex, difficult and not without risk ...
  - For the patient
  - For the clinician

# Clinical negligence

- Duty of care
  - Proximity *Donoghue v Stevenson* [1932] AC 562
  - 999 call (accepting personal details) *Kent v Griffiths* [2000] 2 WLR 1158
- Breach in standard
  - Bolam *Bolam v Friern Hospital Management Committee* [1957] 1 WLR. 582
  - Bolitho *Bolitho v City & Hackney HA* [1998] AC 232
- Harm
  - causation

# Common errors

- Often not a single error, but a culmination of a number of factors
- Common contributory factor
- Limited **open minded objectivity**
  - “looks cardiac”
  - “looks musculo-skeletal”
  - “looks like asthma”
  - “looks like a panic attack”
  - “looks like he’s pi\*\*ed”

# Standard of care ... rule in or rule out

Taaffe v East of England Ambulance Service  
NHS Trust [2012] EWHC 1335 (QB)

- 50 yr old female
- Indigestion type chest pain.  
Good colour, cold but not  
sweaty.
- Hypertension
- 2 x 12 lead ECG, second  
“Abnormal ...T-wave  
abnormality, consider inferior  
ischaemia”
- Paramedics
  - Failed to take a proper history
  - Failed to make a proper  
assessment of symptoms &  
signs
  - Insufficient training or  
knowledge of potential  
consequences of high blood  
pressure
  - Over reliance on ECGs
- The paramedics’ care fell  
below the standard expected  
of the reasonably competent  
paramedic, and was  
accordingly negligent

# Meningitis

- Coakley v Rosie [2014] All ER (D) 7p (Jun)
- To be determined
  - Whether claimant presented signs & symptoms which either warranted;
    - a diagnosis of meningitis
    - meningitis should be strongly suspected
    - meningitis could not be reasonably excluded
- Found for the claimant

# Diagnosis?

I can't tell you what it is,  
but I can be reasonably  
sure that it isn't ...

# History

- Appropriate
- Adequate
- History notes
  - Not reporting negative findings
  - Imprecise language



# Examination and investigations

- Appropriate examination
- Adequate examination
- Measurable and quantifiable
- Interpreted
- Examination notes
  - Extension of the history
  - Not reporting findings of examination
  - Not reporting negative findings

# Disposition decisions

- Referral pathways ... finding someone else to take responsibility (or take the blame!)
  - Shared liability
- Safety netting
  - What to look for
  - What to do
  - Timeframe
- Refusal – treatment/transport
  - Capacity

# Rationale for decisions

“No diagnosis of Mrs Taaffe’s condition was recorded by the paramedics, nor was their reason for not advising her to attend hospital”

Nelson J. Taaffe v East of England Ambulance Service NHS Trust [2012 EWHC 1335 (QB)]

# Delay in treatment

Kadir v Mistry [2014] EWHC Civ 1177

- Abdominal symptoms
- Failure to diagnose
- Delay in treatment
  
- Appropriate referral

# Discharge to the care of others

- Fatal Accident Inquiry 2014 FA120
- 2 methadone ODs in 36 hours, tachycardia, pyrexia
- Patient “appears to be safe to be left with police at this time with advice to seek medical assistance if required”

“The advice to seek medical assistance if required does not in my view sufficiently alert the police to a known risk of a change in Mr B’s condition

... paramedics should have informed the police about the risk they recognised and provided, if not guidance as to the observations required for Mr B, at least a warning to the effect that he required to be carefully observed”

*Abercrombie QC*

# Records

“I have no doubt [Ms Doy] was doing her best to remember what happened. But the contemporary records provide a credible benchmark against which to test her recollection and that of KD’s father; and it is by reference to those records that I am driven to the conclusion that I cannot be satisfied as to the reliability of their account of his condition during the relevant period and in particular at the critical point at which [Dr Gunn] saw her son. Despite the shortcomings of the note of the consultation ..., I am satisfied that the entries that it contains can be relied upon and I therefore accept [Dr Gunn’s] reconstruction of the consultation based on the note.” Owen J. Doy v Gunn [2013]EWCA Civ 547

# Overarching principles

- Careful
- Knowledge and skill
- Care regarded as proper by a responsible body of those practicing that art or profession

Questions?

