Inquest Representation for Doctors

Inquests raise particular difficulties for doctors who have to attend them to explain the care and treatment decisions they made in relation to a patient. Coroners frequently call hospital doctors (general and psychiatric) and General Practitioners (GPs) to attend an Inquest to give evidence about how a patient was cared for, as part of the inquiry into the cause of a patient’s death.

Bereaved families and other interested parties are permitted at an Inquest to question medical doctors they and will often have their own barrister to ask the questions. Relatives on many occasions seek to blame a doctor for causing or contributing to a patient’s death. It is wise therefore for a doctor to attend an inquest with a legal representative, to protect their interests, where there is a risk of such questioning.

Coroners in our experience, while polite and on many occasions helpful to witnesses, are not on the side of any particular witness. They are independent, tasked with the role of establishing the cause of death, and must do so fearlessly in the public interest. It is therefore important to have regard to the coroner’s position, and their responsibilities, as any reassurance given by the coroner or the coroner’s officers may carry little meaning, as the inquest inquiry progresses and the evidence is heard. Clinical witnesses who feel that they have nothing to worry about can suddenly find their past clinical conduct (as it related to the deceased) being scrutinised and challenged. An act or omission that contributes to death more than minimally can lead to an adverse finding against a doctor.
Real Inquest Case Illustration: A GP Practice had on their patient list an asthmatic patient who failed to show up to GP appointments. There was no further follow up. The patient subsequently died at home of a sudden-onset asthmatic attack, without access to any inhalers. The patient was also not on any prophylactic treatment. The GP Practice was found (by the Coroner) on the balance of probabilities to have contributed to death, despite having argued that (by inference) the patient – who did have mental capacity – had chosen not to attend. The deceased patient’s family subsequently sued the GP practice. The GPs had not anticipated that this might occur.

Coroners have a statutory duty (an obligation pursuant to Article 2 of the European Convention on Human Rights) to inquire into the deaths of all patients, whether death occurred in a hospital, other clinical facility, or in the community (even at home), who may have died an unnatural death. A Coroner also has a statutory duty to make recommendations to doctors and healthcare providers on the steps that they might take to reduce the risk of repetition, where an error or accident has occurred.

Article 2 inquires by way of an inquest will also apply to informal mental health patients (see our case law update, below).

Inquest verdicts can include a rider that a doctor caused or contributed to death by way of neglect – a failure to provide basic medical care. Even a finding that a doctor contributed to death in some way (without there being a Neglect rider) can still be damaging to the doctor’s reputation and standing. At the end of an inquest, a coroner may report a doctor to the General Medical Council (GMC) or CQC or other public authority, leading to further and prolonged inquiries.

On occasions a Coroner will be assisted by a jury. Inquest juries must be empanelled where there is a pressing public interest for a patient’s death to be examined by a jury – because of the added independence that a jury brings to the inquiry into matters that may concern employees of the State
or the State’s obligation to protect human beings from harm.

In some instances, Coroner may be looking into the cause of a number of patients’ deaths and a large number of clinical, lay and expert witnesses may be called to give evidence. Some inquests last for several months, while others may be as short as half a day.

It is recommended that doctors attend an inquest with legal representation where their own acts or omissions (or those of their employees or colleagues) are being scrutinised, that relate to the care and treatment of a patient.

Doctors Defence Service provides legal advice and assistance to doctors who are appearing at coronial inquests (with or without a jury) in the UK and some international jurisdictions. Call us on 0800 10 88 739 to discuss any matter concerning an inquest or the unexpected death of a patient.

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