

The experience of a professional  
malpractice complaint in a group of  
South African psychologists:  
Results from a phenomenological  
study

Hanlé Kirkcaldy

Esmé van Rensburg

Kobus du Plooy

School of Psychosocial Health

North-West University

# Research Background

- Professional misconduct complaint - unwelcome reality
- In South Africa - more complaints against practitioners in recent years
- Professional standards? Consumerism? Rights awareness? Legal arena?
- Burden on state and in private sector
- Leads to defensive practice (positive and negative)
- Practitioners avoid certain specialities, careers or functions
- Patients are deprived of services
- Effect on practitioners
  - Litigaphobia, e.g. Poythress and Brodsky, 1992
  - Medical malpractice stress syndrome, e.g. Charles 2001, Ryll, 2015
  - Clinical judicial syndrome, e.g. Arimany-Manso, 2018
- South African research lacking: What is effect on local practitioners?

# Research Aims

- Paucity in South African research and literature on the personal experience of a professional malpractice charge
- Lack information on personal effects of a complaint
- What is subjective and lived experience?
- Contribute to an open discourse
- Destigmatise the topic
- What are personal and professional needs?
- Empower practitioners to prepare personally and professionally
- Training material - colleagues, interns, students
- Results discussed here - small part of findings
- Two themes only
- Mention other results at end of presentation

# Research Method

- Ethics:
  - Ethical application and approval
  - Health Research Ethics Committee (HREC) at NWU
  - NWU-00367-16-S1
  - Medium risk: identification, self-and other stigma
  - Risk mitigation
  - Purposive sampling
  - Information package and informed consent
- Data collection
  - Qualitative research design
  - Recruitment: 18 month period, nationally
  - Semi-structured, in-depth interviews
  - Independently registered psychologists (N=10)
  - Average age: 57.7 years (SD=8.09)
  - Average experience: 23.2 years (SD=8.68)
  - Experienced
- Single or multiple professional misconduct charges
- Complaints process concluded
- Data analysis
  - Interpretative Phenomenological Analysis (IPA)

# Results

- Only part of the results from the study discussed here
- Full results will be submitted for publication
- Discuss two superordinate themes elicited from the analysis today

## Theme 1

- Participants experienced the effects of a complaint on an intensely personal level

## Theme 2

- The experience highlighted the challenging nature of the modern healthcare arena

# Results

## Theme 1

Participants experienced the effects of a complaint on an intensely personal level

### Subthemes

- The participants experienced a significant subjective emotional impact – range of arduous emotions
- Shock, surprise
  - *“shocked and horrified”; “I am one of the most ethical people...completely a blindside”; “not present” during family holiday*
- Fear and anxiety
  - *“nerve wracking”; “seriously scary”; “mouth was dry with fear...that’s how I lived for that year”*
- Fear losing income
  - *“that my livelihood and profession and everything would be taken away from me”*
- Trauma - preoccupation, rumination, avoidance; anticipation; re-experiencing symptoms during interview
  - *“waiting for some kind of axe to fall”; “life is on hold”; “sword of Damocles”; “it doesn’t go away” – years later; “attacked me on some basic level”; avoiding letterbox / courier*

# Results

## Theme 1 (cont.)

Participants experienced the effects of a complaint on an intensely personal level

### Subthemes

- The participants experienced the complaint as physically challenging
  - *“lost weight”; “didn’t sleep”; “developed shingles”; “put in ICU”; on medication – physical and psychiatric*
- The participants experienced a challenge to their identity and self-confidence

Professional reputation and personal identity linked

- *“your whole world is encapsulated in the work you do...and now someone has cast aspersions”*
- *“I felt alienated from myself as a psychologist...it wasn’t me anymore”*
- *“a huge thing for me...others would question my integrity”*

Lonely and isolated

- *“I thought people would see...that I did something shameful and that I should feel guilty”; “I sort of isolated myself”; “I was very embarrassed”; “there wasn’t anywhere I could go...no soft place to land”*

# Results

## Theme 1 (cont.)

Participants experienced the effects of a complaint on an intensely personal level

### Subthemes

To continue work or not

- *“I wanted to quit being a psychologist”; I felt worthless...I cannot do this job”; “I second guessed myself all the time”*
- The participants experienced practical difficulties

Backed up on workload; time with legal counsel

- *“there’s a backlog...it takes time to write responses”; saw lawyer “for seventeen hours” in one week only*

Financial implications

- *“loss of income” during hearing, managing complaint; “can’t sue them” back*
- *indemnity insurance – all grateful; necessary*
- *certain practitioners too high risk - lost insurance “was shattered”*

# Results

## Theme 2

The experience highlighted the challenging nature of the modern health care arena

### Subthemes

- The experience of the client as the complainant
  - *Duplicitous: “you sit in the hearing and there’s your accuser and she lied”*
  - *Surprised: “there was nobody else that could help them” during the holidays; or “being kind” to client by accepting referral – yet complaint arose*
  - *Empathy: “I knew[the complaint] was part of his paranoia”*
- The participants experienced ethical deliberation as complex and ambiguous
  - *Impossible to avoid all dual relationships when “working in a community”; theory substantiated actions and deliberations – yet claims arose*
- Ethics open to interpretation and judgement
  - *“best interests of children”; protection of minors against abuse*
- Constant threat of litigation undermines psychological relationship
  - *“not open and embracing enough for the client”*
  - *defensive stance*

# Results

## Theme 2 (cont.)

The experience highlighted the challenging nature of the modern health care arena

### Subthemes

- The participants experienced some complaints as unjustified and frivolous – feels unprotected
  - *“system is abused” by complainants; still facing the same questions as a person who slept with his patients”; “confident that what I did was right, yet can still be found wrong”*
- The participants experienced themselves as the subjects of legal strategizing – e.g. in psycho-legal work – legal alertness in committees needed
  - *“as soon as you release your report one of the parties is going to report you to the HPCSA...because they want to be able to say, she’s been reported”; “prior to my evidence they basically threatened that they are going to report me if I testify”*

# Additional results

- The experience of an alienated relationship with the registration body
  - Experiencing a lack of protection
  - Experiencing a state of accusation, rather than investigation

# Summary & Conclusions

- Arduous personal journey for a practitioner
- Psychological impact - shock, fear, trauma
- Identity and self-confidence; attack on reputation
- Lonely and isolated
- Physical impact - illness, medication
- Practical difficulties - time and money
- See clients differently - defensive
- Ethics is complex and ambiguous - hard to defend
- Frivolous and ungrounded complaints
- Legal strategizing

# Recommendations

- Awareness of psychological and physical impact
- Need for organized support structures
- Forum to share experiences and openly discuss complaints amongst colleagues
- Elimination of vexatious complaints and protection of practitioners
- Complaints processes expedited
- Likelihood of complaints high
- Training of younger colleagues
- Public awareness and understanding of ethical deliberation
- Specific support needs of practitioners should be identified
- Redefine relationships and roles

Thank you

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