

Surgeons' culture of concealment

By Hedley Thomas, *The Australian*, 17 October 2015

A senior retired judge who led a royal commission-style inquiry into dangerous doctors and deadly health systems has delivered a searing rebuke to the nation's surgeons, accusing them of failing patients by refusing to expose incompetent colleagues.

Geoff Davies QC, who has been an adviser to medical bodies, told *The Weekend Australian* that in the decade since his 2005 inquiry into Bundaberg surgeon Jayant Patel and a culture of concealment, surgeons were still not reporting bad doctors.

He accused the professional bodies for surgeons of having repeatedly stalled, shifted and failed to implement relatively straightforward data-capture systems to weed out the worst offenders.

A scathing analysis of the inaction

Mr Davies delivered a scathing analysis of the inaction in a speech at a closed-door medical conference in Brisbane this week, telling 1200 orthopedic surgeons: "Collectively you are, it seems to me, still primarily a trade union having the primary purpose of looking after the wellbeing of (other surgeons). And, sadly, you appear to have, so far, put that before the health and safety of patients.

"You all know that, in your midst, there are incompetent surgeons and surgeons whom you would never recommend to your friends or family. They may have varying degrees of incompetence and for different reasons. But all are a danger. All can cause injury."

Mr Davies told the surgeons they had done "little individually and nothing collectively to expose them or even identify them confidentially for the purpose of retraining or limitation of practice".

Why would surgeons fail to speak out?

"Why would surgeons who are otherwise honest and decent men and women and who are themselves competent fail to speak out against what was plainly gross incompetence causing harm?" he said. "The true reason must surely be either a view that the reputation of your profession is more important than the health and safety of patients, or a view that the incompetence of your colleagues is none of your business."

Failing their duty to patients

Mr Davies, a judge on the Queensland Supreme Court of Appeal for 14 years, told the surgeons they were failing their duty to patients, as well as their "collective duty to maintain public confidence in your profession", by not setting up a peer review of competence that would withstand public scrutiny. He said that only vascular surgeons had established such a system in Australia, which enables members to measure their individual decisions and performance against the collective outcome — and gives the professional group the evidence to verify whether "statistical outliers" were due to poor decisions or bad performance.

He lambasted them for not fulfilling a mandatory requirement to notify authorities of a colleague's lapse in professional standards, which was one of the results of his inquiry.

“We as surgeons should report incompetent surgeons”

John North, clinical director of the Queensland Audit of Surgical Mortality, which examines the circumstances of surgical deaths, said yesterday: “There are surgeons with competence issues who are performing operations today despite their colleagues knowing that they are not up to it. Colleagues fear retribution from these incompetents should they blow the whistle. It results in fewer than there should be being reported. We as surgeons should be identifying and reporting incompetent surgeons.”

Dr North, a past president of the Australian Orthopaedic Association, added: “Geoff Davies is right — and systems that could and should identify high-risk surgeons don’t.”

Royal Australasian College of Surgeons president David Watters said the surgical profession as a whole took “outcome, performance and the care of patients very seriously, along with audit and peer review”.

Professor Watters said he did not agree with some of the criticisms levelled because there had been a “tremendous amount of improvement and I think we have gone quite a long way”.

“We can always do more and I think Geoff Davies is a strong driver in encouraging us to do more — the college takes what he says very seriously,” he said. “We are bound by mandatory reporting of dangerous or impaired doctors and they are dealt with appropriately in the workplace.”

Mr Davies said surgeons with competence issues should be given an opportunity for retraining, mentor supervision or the option of ceasing to undertake procedures — and, if the surgeon did not accept such options, referral to the Medical Board.

Stymied by the self-interest of colleagues

Senior surgeons who support systems to identify incompetence say they are stymied by the self-interest of colleagues, a culture of not reporting, retribution threats, and the unresponsiveness of slow and overly bureaucratic investigative and regulatory bodies.

Mr Davies cited statistical studies showing close links between complaints and incompetence, with surgeons being the subject of two or more complaints over 10 years in a high-risk category for competence. But he said this was the “tip of the iceberg as only 4 per cent of serious preventable adverse events trigger complaints”. He also cited evidence that surgeons over 55 were in the high-risk category because their fine motor skills, endurance and strength “showed marked incremental decline”.

“Yet you have resisted any means of doing this”

He told the surgeons the best way of determining a surgeon’s competence was through objectively assessing the actual operations, adding “yet you have resisted any means of doing this”.