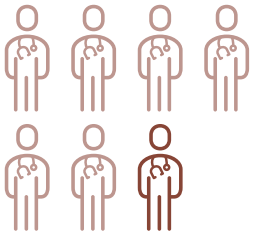
Surgeons in Focus

MDA National
Support Protect Promote

This report brings together key data and practical case studies to provide insight into the risks, trends and opportunities shaping your field today. It is designed to help you benchmark your experience, strengthen decision making and highlight actionable ideas that support safer, more confident practice.

For the purpose of this report, we have combined all of our Surgeon member groups.

Incidents & Claims Insights | 1 July 2023 — 30 June 2026



1 in 7

Surgeon members notified MDA of a medico-legal case in 2026.

This is up from **1 in 7** in 2025.

Top 3 Incident Types

35% 23% 12% 32%

- Duty of Care Issues
- Diagnosis
- Medication Related: Type or Dosage
- Other

Top 3 Injury Types

30% 15% 12% 43%

- Musculoskeletal System & Connective Tissues
- Digestive System
- Skin & Related Structures
- Other

Top 3 Claim Types

18% 17% 17% 52%

- Solicitors Letters of Inquiry
- Complaints OHR/HSC
- Patient Letter/Complaint
- Other

Top 3 Case Types

36% 32% 31% 2%

- Investigation
- Claim
- Incident
- Other

Key themes from MDA National case data

Post-operative complications

Highlighted areas in post operative complications included: patients reporting a lack of care or follow-up post-surgery, a lack of progress or poor/ unexpected outcomes, and ongoing pain, swelling or infection.

In some cases, further procedures were undertaken to address the problems, while in others additional care was provided.

Key considerations to mitigate complications can include:

- Providing clear information to patients that outlines the risks pre and post-procedure.
- Clarifying patient expectations and time frames for recovery.
- Ensuring patient understands the procedure with a thorough and well-documented consent process.
- Maintaining records that outline all communication as well as clinical care provided.
- Understanding the open disclosure process, to assist in the relationship with patients and carers.

MDA National has experience and expertise with a wide range of incidents, so you can contact us as soon as you recognise the potential for a medico-legal matter to emerge.

Request for records

58% of Writs/solicitors letters of enquiry were related to complications either during or post-procedure. This highlights the potential for medico-legal issue when things don't go as planned. A request for records may progress to legal action. If you recognise a complication during surgery, or potential post-operative complication, you can support Medico-legal defence by:

- Prioritising accurate and timely documentation.
- Ensuring diligent follow-up care.
- Maintaining clear records and well-documented processes.

Quality documentation makes a significant difference when information is later required.

Case Scenario 1*

An MDA National Member performed a colonoscopy on a patient. The following day, the patient presented to an Emergency Department where they underwent an emergency laparotomy and splenectomy due to damage from the colonoscopy.

The patient complained to the Medical Board of Australia that the MDA Member was dismissive, evasive and lacked sufficient duty of care.

- We assisted our Member in their response to the notification and obtained internal clinical input as part of this process.
- The Medical Board determined that our Member performed the procedure at the standard required, responded appropriately and engaged appropriately in open disclosure process.
- The Medical Board took no further action putting an end to the matter.

Case Scenario 2*

Our Member performed successful surgery. The patient developed a post-operative infection. They claimed that the MDA Member did not conduct adequate post-operative care and neglected their GPs request for review.

The patient made a complaint to the Health Care Complaints Commission (HCCC). The HCCC referred the matter to the Medical Council of New South Wales.

- The Member responded to HCCC request without first contacting MDA National.
- Only when the HCCC referred matter to the Medical Council did the Member get in touch with MDA.
- We assisted our Member by reviewing their response, and provided suggestions on wording as well as obtaining internal clinical input.
- Contacting MDA National prior to submitting anything to a regulator may ensure an appropriate response and could prevent a matter from escalating unnecessarily.

Looking for more info?

MDA has practical resources to support you across medico-legal areas like consent, medical documentation and complaints. Explore the links below or check out our full range of educational materials.

Case Studies & Articles

- Handing Over the Medical Record - What You Need to Know
- Creating and keeping medical records
- Subpoenas for Medical Records
- Recalls and reminders: Closing the loop
- Managing patient complaints
- How should I respond to a subpoena for my patient's medical records?
- Dealing with the stress of litigation and complaints
- Patient claims involving hospital doctors
- Is it okay to say sorry

Learning Activities

- Noteworthy: The how, what, where and why of medical documentation
- AI scribe tools in record management
- Introduction to Open Disclosure
- The challenging emotions of difficult news
- Informed consent challenges
- Surgeons' risk self-assessment – Privacy in private practice
- Medico-legal CPD Quiz 1
- Check MDA National LMS Catalogue for more online and face to face workshops dates and times

Early notification ensures that tailored advice and support are available when you need it most. It also helps us prepare effectively should the matter progress.

Members have access to individualised advice and support and Member benefits. Non-members have limited access to our library of resources and education content.

Please contact **advice@mdanational.com.au** or call us on 1800 011 255 for more information. Members can access our **Member Online Services** or **LMS** for information and education content.

Want more tailored information?
Scan QR code or visit **mdanational.com.au/specialist/surgeons**

*The case study is based on actual medical negligence claim or medico-legal referral; however certain facts have been omitted or changed by the author to ensure the anonymity of the parties involved. This report contains general information only. We recommend you contact your medical defence organisation or insurer when you require specific advice in relation to medico-legal matters. The MDA National Group is made up of MDA National Limited ABN 67 055 801 771 and MDA National Insurance Pty Ltd ABN 56 058 271 417 AFS Licence No. 238073. 8564.2