

Response to ‘Saying sorry’ – we endorse protected apology

To the Editor: RE: ‘Saying sorry – should a ‘safe space’ be created to allow effective communication between healthcare practitioners and aggrieved parties after an iatrogenic event in South Africa?’ (*SAMJ* August 2024).^[1]

Khan and Laubscher highlight the often-overlooked importance of an apology when an iatrogenic adverse event occurs.

The culture in healthcare should be one of openness and honesty, so that professionals feel they can explain an adverse outcome with confidence, apologise where and if necessary, learn from any mistakes that may have contributed to an adverse patient outcome, and make improvements to minimise the risk of the same thing happening again.

Unfortunately, as the authors point out, there is currently no legislation in South Africa (SA) that protects healthcare practitioners during litigation should they issue an apology to a patient, as the apology may be construed as an admission of liability.

This is despite an audit of medicolegal cases, claims and complaints ordered by the Department of Health in 2012 that recommended drafting legislation for the introduction of apology laws as a way of tackling the high number of medical negligence claims that were occurring annually.

Why this recommendation was not acted upon is unknown, but the current situation means that many healthcare practitioners are reluctant to explain or apologise for fear of blame or personal recrimination.

When a patient or family member does not receive an explanation or the apology they believe they deserve, or which they feel would

bring closure, they are more likely to pursue civil or criminal action, or to contact the HPCSA – particularly in the absence of a good complaints handling process in SA.

Medical Protection, which protects the professional interests of over 300 000 healthcare professionals around the world, including >30 000 in SA, has seen first-hand the benefits of laws that provide protection to those issuing apologies when their actions may have resulted in harm to the patient.

In jurisdictions where such laws exist, apologies have helped prevent formal complaints from escalating or even occurring at all. Perhaps more important than the sequelae averted by these changes may be a reflection of less dissatisfaction by patients or families following an explanation and/or an apology.

Saying sorry should never be viewed as an admission of liability. Rather, it is an acknowledgement that something has gone wrong, and a way of expressing empathy.

It would be well advised for our laws in SA to reflect this.

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1. Khan MS, Laubscher MC. Saying sorry – should a ‘safe space’ be created to allow effective communication between healthcare practitioners and aggrieved parties after an iatrogenic event in South Africa? *S Afr Med J* 2024;114(8):e1881. <https://doi.org/10.7196/SAMJ.2024.v114i8.1881>