Reviewer's report

**Title:** Conditions that influence the impact of malpractice litigation risk on physicians' behaviour regarding patient safety

**Version:** 3  **Date:** 16 November 2013

**Reviewer:** Rick Iedema

**Reviewer's report:**

My comments on the paper's revision are as follows. I regard all comments as compulsory.

Thank you, authors, for revising the paper in line with the suggestions made. The paper reads much better. To refine the paper even further, I ask the following:

- The introduction of the article has redundancies (i.e. "defensive medicine in par 1 and par 3; the "risk of malpractice litigation" in par 2 and par 3) - please rectify these unnecessary redundancies
- You say "data gathering saturated" - this is an odd expression; not data gathering saturates, but the analysis of data reaches a point where further data collection can be considered not to yield any new insights" - please fix
- You talk about uncovering "beliefs and cultures" - this too is rather odd; please fix
- Explain more and unpack the bit on p. 4 that starts with "This suggests ..."
- Fix (p. 5) "other respondents ... physicians ... physician friends ..."; awkward
- Pleonasm on p. 5: "unique ... belongs to individual"
- The quotes cited on p. 5 need to be more carefully interpreted: one is about off-loading responsibility; this is not about dispersed responsibility but about blame shifting, which you don't comment on
- You write "The feeling of personalised responsibility ..." - can this also at times be more than a feeling, i.e. more factual?
- You state that personalised responsibility leads to less reporting and less disclosure - is there evidence for this claim?
- Point of figure 1 lost on me - what does this figure do? how does it clarify? It's hard to read and adds little meaning
- Rewrite the section on p. 6 that starts with "Personalised responsibility ..." - it's awkward and unclear
- On p. 6 you dichotomise individual-system - not helpful, particularly after talking about complexity
- P. 7 makes a claim about how the model may assist research into this aspect of incident management - two problems: the model is unclear; the research IS being done; your article sheds a different light, because you make three important
points: complexity has implications for what people need to talk about and how often; complex care arrangements should have implications for how incidents are discussed, and risk needs to be made clearer for/to the public - that is your contribution; the model offers little in my view

- you conclude that reducing fear of malpractice litigation risk is paramount, but what will take the place of litigation to make clinicians comply with patient safety standards if not litigation - more regulation? more trust and communication? higher salaries and more resources? You don't answer these questions, but should consider them.

- References 18 and 19 are incomplete

Level of interest: An article of importance in its field

Quality of written English: Acceptable

Statistical review: No, the manuscript does not need to be seen by a statistician.

Declaration of competing interests:

I have no conflict of interest in reviewing this article.