

Medical Errors: Disclosure, Apology and Coping

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Error Disclosure

- ❑ Recommended by medical, ethics and safety experts
- ❑ Highly desired by patients
- ❑ Sometimes promoted by legal doctrine

But

- ❑ Inhibited by our medical culture
- ❑ Stifled by some insurance policies

**Only 30% of medical errors committed on doctors are disclosed
Novack, JAMA, 1989; 261**



Patient's Desires

- ❑ Explicit statement an error has occurred
- ❑ What the error was
- ❑ Why the error happened
- ❑ How recurrences will be prevented
- ❑ An apology

People can live with mistakes, they don't tolerate cover-ups

Evidence Supporting Disclosure

- Health system changes at the Univ. of Michigan (Catholic Health West, Kaiser Hospitals, others)
 - 50% reduction in lawsuits,
 - 63% reduction in litigation expenses
 - Insurance reserve reduced from \$76 million to \$20 million
- Lexington VA – ave. amount on paid claims dropped significantly (\$413,000 to \$36,000)
 - Number of paid claims rose



Ethical Basis of Disclosure

- “Concern regarding legal liability... should not affect the physician’s honesty...” (AMA Code of Ethics)
- Patient-centered perspective
 - Patients want to know
 - Want more than they receive
 - Disclosure may facilitate adjustment
- Harm from error may require treatment, necessitating informed consent

What Actually Happens?

- Four options:
 - Disclose the error truthfully
 - Edit the disclosure
 - Intentionally lie about it
 - Don't say anything - rationalization
- Truthful disclosure probably happens less than 30% of the time

Editing

- ❑ Euphemistic language – “complication”
- ❑ Advantageous comparison – “could have been worse”
- ❑ Distorting the consequences – “blessing in disguise”
- ❑ Displacement of responsibility - “it was the nurse”
- ❑ Diffusion of responsibility – “it was the hospital”
- ❑ Attribution of blame – “if only you weren’t so fat”

Rationalizations

- “The patient was going to die anyway.”
- “It will only make them feel worse.”
- “It was the patient’s fault” (too obese, alcoholic, noncompliant, etc.)
- “Things happen.”
- “I’m not totally sure an error actually caused them harm.”

Self-deception is the key to authentic rationalization

Case 2 – Insulin Overdose

- Mr. Thompson, admitted to hospital for emphysema. Also a diabetic.
- Order for insulin
NPH 10u
- Was given 100 U – developed hypoglycemia
- Transferred to ICU, treated and woke up

“I’m Sorry”

- An empathic statement should be used after any negative outcome
- Not an admission of fault
- Shows respect and compassion
- Apology is only done after due diligence and consultation with counsel
 - It is used when an error has occurred



Mindfulness

- Managing resistance to disclosure
- Managing rationalizations
- Practice empathic disclosure

Key ingredient – you need to have a way to reduce your feelings of stress



Managing Resistance to Disclosure

- ❑ What was the nature of my mistake?
- ❑ What are my beliefs about the mistake?
- ❑ What did I feel about it?
- ❑ How did I cope with the mistake?
- ❑ What changes have I made as a result of the mistake?

Novack, JAMA 1997;278(6)

Empathic Disclosure

- Key is to focus on the patient
 - Don't focus on yourself – “spectatoring”
- “Active listening” – the listener is making sense of what he or she is hearing
 - Patient's will often project their emotional pain onto the provider
 - Must be psychologically prepared to absorb it
- Assume nothing – be prepared for anything

Empathic Responses

- Acknowledgement
 - “This must befor you to hear.”
 - “I hear you.”
- Listen
- Probe
 - “Tell me more...”
 - “What about it worries you the most?”
 - “Anything else?”
- Clarify
 - “So, what you’re saying is...”

Nonempathic Responses

- ❑ “I know how you feel”
- ❑ “Try to cheer up, it’ll be OK”
- ❑ “Maybe this is a blessing in disguise”
- ❑ “Try to pull yourself together”
- ❑ “I’m sorry you feel this way”
- ❑ “If you had taken better care of yourself...”
- ❑ Advising, sermonizing, or lecturing

Process of Disclosure

- Rehearse the disclosure of information
- Deliver it simply and truthfully
- Stop talking
- Assess how the news is being received
 - Active listening
- Respond empathically
- Apologize



How to Begin

- Mr. Jones, what I have to tell you is going to be difficult for me to say and probably very hard for you to hear. A mistake was made during your (your family member's) treatment. Now, how would you like me to proceed with this information? Would you like to know what happened or is there another way you'd like me to communicate the information?

(7th grade level)



What to Disclose

- ❑ Describe the error and the harm it caused
- ❑ When and where it happened
- ❑ Consequence of the harm
- ❑ Actions taken to reduce the harm
- ❑ Actions taken to prevent future occurrences
- ❑ Who will manage the patient's continuing care
- ❑ Costs to be removed from the patient's bill
- ❑ Offer of counseling and support

Resist blaming anyone!

Apologizing

- Apologize profusely and repeatedly
 - Patients process information in chunks
 - Each new chunk may need an apology
- “I’m sorry beyond words that this happened.”
- “We deeply regret that this happened.”
- 37% of patients suing providers report they wouldn’t have sued if they had received an apology

References

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