



Doctor-Patient Communication

Complaints and legal actions

Role of doctor-patient communication

Marie-Thérèse Lussier, MD, MSc Claude Richard, MA

What role does doctor-patient communication have in relation to legal actions and complaints? In addition to the “technical” errors complainants claim to have suffered, many also report having faced communication problems.^{1,2} None of what follows, we should stress, should be taken as an attempt on our part to find ways of preventing patients from taking any recourse to which they are entitled in cases of negligence or error.

We should point out an important distinction between complaints related to the treatment process and complaints where there is evidence of negligence or medical error. A physician’s change in attitude might virtually eliminate complaints regarding the treatment process. Better patient-physician communication could no more than blunt the emotional effect on patients of medical errors.

Main communication problems reported by patients

Studies using various methodologic approaches¹⁻⁴ have shown that the quality of medical care is not the only thing that determines whether patients take legal action. Relations and communication with physicians—and the dissatisfaction that can result—also have a major role. An estimated 70% to 80% of medical litigation involves relationship or communication problems. The main sources of dissatisfaction are listed in **Table 1**.

Table 1. Sources of dissatisfaction: *Dissatisfaction arises from poor patient-physician relations and inadequate communication.*

Lack of preparation for meetings with patients
Giving the impression of having very little time for patients
Underestimating the seriousness of the physical symptoms patients report
Showing little regard for patients’ or their families’ views

Communication and history of malpractice suits

Levinson et al⁵ were the first researchers to have correlated physicians’ usual communication strategies with their history of malpractice suits. Their study is based on tape recordings they made during physicians’ routine interviews. **Table 2**⁵ summarizes

Table 2. Characteristics of communication strategies of physicians who have been sued

They conduct shorter interviews (15 minutes vs 18.3 minutes)
They make fewer statements for managing the course of interviews
They make fewer statements that encourage patients to elaborate on their thoughts or offer opinions
They make fewer statements to ensure patients understand what is said
There is less humour and laughter during interviews

Adapted from Levinson et al.⁵

Dr Lussier is a family physician, and Mr Richard is a psychologist, in Montreal, Que.

Doctor-Patient Communication

characteristics that distinguish physicians who have been sued from those who have not.

No difference emerged between the two groups in terms of number of informative statements they made. This finding is surprising because, at first glance, it differs from results of studies on communication and satisfaction that show that patients have a stronger desire for information than health care professionals generally estimate.⁶ The authors were led to conclude that the climate of an interview affects patient satisfaction more than the actual content of the discussion does; for patients, a relaxed atmosphere represents a warmer, more personal relationship.

The findings of Levinson et al⁵ are particularly persuasive because they are based on direct observation of physicians' behaviour rather than

on patients' perceptions of what transpired during interviews. Interestingly, the results are generally in line with those of other studies (**Table 3**).

Bottom line


- Communication strategies that seem to be important are simple and easy to apply in practice.
- Concern for efficiency rarely makes up for lack of consideration; excellence in medicine demands a synergy between technical and communication skills.
- Good communication is no guarantee against lawsuits or complaints about medical errors. It does, however, play a decisive role in discouraging complaints associated with the treatment process and in increasing patients' satisfaction with their care. 

Table 3. Lessons drawn from studies of the relationship between malpractice suits and patient-physician communication

Acknowledge patients as individuals with their own stories to tell; let them describe what symptoms or problems mean to them personally. The more meaningful the content of the interview to patients, the greater the chance your interventions will succeed, and the more satisfied patients will be.

Before seeing patients, take time to prepare by reviewing their charts. Knowing about patients' situations before you meet is an indication of your respect.

Introduce yourself to your patients and, if circumstances permit, shake hands with them. This gesture shows concretely that you acknowledge patients as people in their own right and thus helps establish good rapport.

Show patients they have your full attention, and avoid interruptions during interviews. Interruptions influence how patients perceive the duration and quality of consultations, particularly when the visit is short. If you do not have much time or feel rushed for any reason, it is better to tell patients how much time you have rather than risk their interpreting your behaviour as a sign of indifference.

Adjust the amount of time allotted for an interview if you are delivering bad news. Remember that bad news has to be considered from patients' perspectives, not your own. We know that more time is needed when delivering a tragic diagnosis, such as HIV, cancer, or birth defects. Physicians should look for signs of anxiety when patients are given less serious diagnoses also, so that they can offer reassurance.

Never make promises you cannot keep: "I'll come and see you at the end of day," for example. To patients, a broken promise is a sign of negligence or lack of regard.

Never expect patients to voice dissatisfaction or give their opinions spontaneously; the traditional asymmetry in roles dictates that physicians "run" interviews.

Take time to make sure your patients understand you. Never take it for granted that they do! Despite your best efforts to explain situations, patients' understanding is often fragmentary. And, if they do not understand, they will think you explained matters badly.

Take time to ask patients if they have any questions. Doing so shows them you think it is important that they understand the problem and treatment.

References

1. Beckman H, Markakis K, Suchman A, Frankel R. The doctor-patient relationship and malpractice. Lessons from plaintiff depositions. *Arch Intern Med* 1994;154:1365-70.
2. Avery JK. Lawyers tell what turns some patients litigious. *Med Malpractice Rev* 1985;2:35-7.
3. Kravitz R, Callahan E, Paterniti D, Antonius D, Dunham M, Lewis E. Prevalence and sources of patients' unmet expectations for care. *Ann Intern Med* 1996;125:730-7.
4. Hickson GB, Clayton EW, Entman SS, Miller CS, Githens PB, Whetten-Goldstein K, et al. Obstetricians' prior malpractice experience and patients' satisfaction with care. *JAMA* 1994;272:1583-7.
5. Levinson W, Roter D, Mullooly JP, Dull V, Frankel R. Physician-patient communication. The relationship with malpractice claims among primary care physicians and surgeons. *JAMA* 1997;277:553-9.
6. Waitzkin H. Doctor-patient communication. Clinical implications of social scientific research. *JAMA* 1984;252:2441-6.

The articles in the series "Doctor-Patient Communication" have been adapted from articles that appeared originally in the French-language journal *L'Omnipraticien*. We thank the Department of Professional Education at Aventis Canada for covering the costs of adaptation and translation.

