# A Smile a Day keeps the Lawyers Away!

## The Importance of Effective Communication in Preventing Litigation

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### Effective communication is the cornerstone of the doctor/patient relationship.

The British Medical Association, in its discussion paper on communication skills education for doctors[1], highlighted four key benefits of effective communication:

- improve the doctor-patient relationship by helping the doctor seek the relevant information and recognise the problems of the patient
- help the patient to understand and comply with treatment instructions, thereby improving patient satisfaction[2,3]
- improve patient health - better communication and dialogue between doctor and patient has a beneficial effect in terms of promoting better emotional health, resolution of symptoms and pain control[4]
- improve the overall quality of care by ensuring that patients' views and wishes are taken into account.

However, in the blame and claim world in which we live it is also essential to help prevent litigation.

### Why patients sue their doctor?

Many studies have shown that doctors make errors; we are only human after all. However, in the majority of cases when an error has occurred the patient does not sue their doctor. Patients who sue their doctors usually do so because they are dissatisfied with the doctor's communication or the relationship with the doctor, rather than the medical care provided.[5]

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### What do patients want when they sue?

It is not all about money. When patients are asked why they have made a complaint about their treatment they will often say that they wish to prevent similar incidents happening to other patients. They would like an explanation about what went wrong and recognition that they have been harmed. Even if the doctor is not to blame they are still looking for an apology and if things are not resolved at this stage they demand accountability and compensation. They want their day in court.

### What is communication?

Communication can be defined as: "The exchange of thoughts, messages, or information, as by speech, signals, writing, or behaviour."

Communication is therefore more than just talking and listening. According to psychologist Albert Mehrabian[6] the impact of a communication breaks down as follows: [7] percent from what you actual say, 38 percent from how you say it e.g. tone of voice, and 55 percent from how you look when you say it i.e. body language. Therefore a smile on a doctor's face can communicate a lot more than complicated medical language.

### Effective communication

#### What you say

Whilst only 7% of effective communication relates to the words that you speak it is vital that the patient understands what you are saying. If there is a language barrier then the use of an interpreter is essential. However, even when there is a common language, doctors will speak "medical" to their patient who, not wanting to appear ignorant, will often claim they understand what is being said without having a clue what is going on.

It is important to ensure that your patient understands what you have been saying.

Dr Schillinger suggests a method of "Closing the loop" or "teach back" [7] and suggests trying the following phrase: "I want to make sure that I explained things well to you. Could you tell me in your own words what we talked about relating to your condition?"

You may have to translate your "medical" talk into more suitable words. By speaking in non-medical terms you may be able to elicit what your patient's concerns and expectations really

are. Doctors are only too quick to jump to conclusions about what a patient really wants from the consultation which can lead to misunderstandings, a damaged doctor-patient relationship and litigation.

***How you say it***

Your tone of voice, the rate and loudness at which you speak all influence how you communicate with your patient and whether or not you are sued.

***Tone of voice***

In a report published in the July 2002 issue of Surgery, researchers found that a surgeon's tone of voice may influence a patient's decision to sue. Analysis of tapes of 114 conversations between 57 orthopaedic and general surgeons and their patients showed that those who sounded less concerned and more dominating were more likely to have been sued.[8]

***Rate***

- Vary rate as appropriate.
- In order to sound interested and attentive, speak at the same rate as the person you are talking to.
- Speak faster to convey enthusiasm, but not too fast as it can make the patient feel rushed.

***Loudness***

- Relative to physical environment.
- Relative to nature of conversation.
- Use loudness to provide emphasis.
- But remember that the person who speaks loudest tends to dominate the conversation and dominating doctors are more likely to be sued.

## Body language

Doctors are professionals and patients expect them to look the part. A patient's assessment of your competency starts with how you are dressed. Just as you make an initial judgment about your patient from how they look, remember that the patient is doing the same with you. A friendly handshake and good eye contact gives the patient a feeling of confidence in your competency and helps them to be able to share their problems with you.

A reassuring smile and a comforting touch can express far more than words and create a better doctor-patient relationship.

Think about how you are sitting with your patient, what your arms are doing, what your face is saying. Does your body language give the impression that you are disinterested and rushed or concerned and caring? Patients are less likely to make a complaint or visit a lawyer if they feel you are empathetic and caring.

***How to listen***

*"Half of us are blind, few of us feel, and we are all deaf."*
*Sir William Osler 1904*

Communication is a two way process and doctors need to listen to their patients.

Although it sounds simplistic the most important skill to develop when listening to your patient is to be quiet. Doctors always seem to be rushed and are very quick to interrupt their patients. Let your patients speak; invite them to talk so they can explain their concerns in their own words. Encourage them by acknowledging that you understand what they are saying. A "Yes, go on" or "of course" whilst nodding your head and maintaining eye contact will let your patient know you are listening and interested in what they are saying.

Asking appropriate questions to clarify points and summarising what has been said all help the patient feel more comfortable and reassures them that you have listened and understood.

Remember that doctors are trained to take a detailed factual history whilst patients are interested in their feelings rather than facts. By giving time to your patient and listening, they will have more confidence in you as a clinician and improve the doctor-patient relationship.

## Communication with Colleagues

It is of course essential that there is effective communication between you and your colleagues to ensure that there is adequate continuity of care for your patient.

In a number of cases that MPS has dealt with the claim has actually come about because of a doctor criticising the care given by a colleague. Often this is a junior doctor who criticises the care given by a general practitioner. The junior doctor often does not have all the facts and certainly should not be making comments that undermine the relationship the patient has with the general practitioner. If a doctor has concerns about the actions of a colleague then they need to use appropriate channels in order to bring this to the attention of those who need to know.

## Communication with the Team

It is worthwhile remembering that in the hospital setting the patient is likely to discuss their condition and a doctor's abilities with a cleaner or nurse and therefore it is essential to maintain a good relationship with all the team who have contact with the patient. Whilst a cleaner will have little idea as to a doctor's actual competency they will have an impression of you that if negative can be passed to the patient and can actually lead the patient to sue.

All that is required is taking the time to speak courteously to all members of staff and a passing smile can actually go a long way to ensuring a committed and faithful team.

People also respond very well to praise. A smile, a thank you and a well done to other members of the team can go a long way to making a pleasant working environment and have supportive staff who will back you up if things go wrong.

In today's team approach to healthcare delivery, communication has to extend to more people and there are therefore more opportunities for it to fail. Communication between primary care, secondary care and social and voluntary services should not be seen as a chain, but as a communication net within which any one member may need to communicate with any other. Good management requires that all members of the communication net are as aware as they to need be of who is doing what. An adequate standard of continuing medical care can be achieved only if every member, both medical and non-medical, understands his or her role.

## Communication and Consent

Communication is a two way process and therefore you need to inform the patient what will happen during the consultation so that they understand what you are doing and why you are doing it. Patients need to consent to be examined and in the context of a normal examination consent is often implied but if the patient is unaware of what you will be doing then misinterpretations can arise.

More and more negligence cases against doctors include allegations that consent was not adequately obtained. Patients claimed they were not warned about the risk of complications occurring or the probability of a successful outcome was not discussed or alternative procedures were not explored. If they cannot show that the doctor was negligent in the procedure that was carried out they often claim that "you never told me that could happen". Obviously there are a number of things that you need to tell the patient before going ahead with the procedure, but in terms of communication it is important not just what you tell the patient but actually how you tell them. Patients should be given information in a form that they are able to understand and must have time to digest the information and you must be available to answer any questions that they have. Try to involve the patient in the decision making process as this will help build trust and avoid problems should things go wrong.

Procedures should be explained in non-technical terms and the probability of a successful outcome should be explained in the context of what a patient believes or expects and not what you believe or expect. Patient expectations are influenced by many factors and are often much higher than yours. Even when the procedure has been trouble-free and successful in your eyes, if it fails to meet the patient's expectations a complaint or claim can often be triggered. Exploring the difference between your expectations and the patient's before consent is obtained is therefore vital.

Raising unrealistic expectations in a patient is only asking for trouble. Whilst instilling confidence in the patient of your abilities it is important that the prospects of success or the likelihood of complications be discussed in realistic terms.

Patient leaflets that explain the procedure, the likely outcome, the risk of complications and post-operative care are extremely useful as aids to obtaining consent. They are, however, no substitute for talking and listening to the patient. Patients must be given time to read them and have an opportunity to ask questions. Other members of the healthcare team can also assist in informing patients, but there should always be an opportunity to discuss the matter directly with the doctor who is going to perform the procedure.

## Written communication

The prime purpose of medical records is to ensure that past consultations can be communicated to you and other health professionals. However, when a doctor is facing a complaint or litigation the importance of adequate medical records cannot not be emphasised enough. They are vital in order to defend the doctor in court.

It is impossible to remember every consultation you have had with a patient and therefore your medical records are the only tool that you have to ensure that you know the previous history, treatment, etc.

An adequate medical record can be defined as one that enables you to reconstruct a consultation without reference to memory. It doesn't mean that you need to write every detail but when you come back to look at the record you should be able to identify exactly what you would have done and said at the time. Abbreviations are appropriate if they are widely used and not derogatory.

Remember that the medical records you have on a patient may in the future be seen by the patient or even read out in court. Therefore you should resist the temptation to put down exactly what you think about the patient and stick to clinical detail.

## Communication when things go wrong

Doctors are not, nor can they ever be expected to be, infallible. Mistakes can and do happen and your patients are entitled to a full and frank account of the events that occurred as soon as possible after the incident. Arranging to meet and discuss the matter with your patient is the best way of doing this. However, it is not always apparent at the time of the consultation that something has gone wrong and it is only when your patient complains that you are aware that they are dissatisfied with some aspects of their care. If you receive a complaint it is natural to feel that you are being criticised and

attacked and the response is to retreat behind a wall of silence and hope that the matter will resolve itself. This does not happen of course and a refusal to communicate with the complainant will only inflame a situation. You should give the complainant a full and frank account of the events, preferably in person. For example, a complaint may have arisen from a misunderstanding and a clear explanation can put things straight, resolving the situation immediately. It is important that you remain courteous, objective and professional throughout any complaints procedure. You must ensure that the facts are established before attempting to provide any response and of course confidentiality must be maintained at all times.

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# 15th Symposium on Growth Hormone and Endocrinology

*2-3rd April 2004, Mediterranean Conference Centre, Valletta, Malta*

This major international conference hosted in Malta by Novo Nordisk included presentations by some of the most eminent researchers in the field and covered several important aspects of recent advances in paediatric and adult endocrinology. The highlights of this conference are summarized below.

## The endocrine late effects of cancer therapy in childhood

These include, primarily, diabetes insipidus, primary or central hypothyroidism, growth hormone deficiency (GHD), altered timing of puberty or gonadal failure, ACTH deficiency, osteopenia, and obesity.

Although the cumulative risk of developing cancer during childhood is 1:650 and the five year survival has increased from 20 to over 70% since 1960, at least 41% of long-term childhood cancer survivors suffer endocrine dysfunction and 16% require GH to complete growth. Thus, patients who develop GHD in early adulthood but before age 25, may require GH in order to achieve adult bone mineral density. All who received cranial radiotherapy before age 25 should undergo assessment of pituitary GH reserve and, if GHD, they should be offered GH therapy until they reach peak bone mass. Importantly, there is no increase in relative risk of recurrence of any tumor type or death after GH therapy compared to the cancer survivors who did not receive GH therapy. Nevertheless, since all cancer survivors are at risk for a second malignancy, ongoing surveillance for second neoplasia is important. Dosage of GH should be individualized to achieve IGF-I in the normal range for age/gender after the first year or two of therapy. Early treatment of endocrinopathy can lead to enhanced growth rate, adult height, stamina, and quality of life.

In those with central hypothyroidism, free T4 should be kept above the mid-normal range.

The most significant cause of obesity in survivors of childhood brain tumors was hypothalamic damage due to tumor, surgery or radiation.

## Treatment of babies born small for gestational age

Compared to children born appropriate for gestational age (AGA), children born SGA are 4 to 8cm shorter as adults. Indeed, about 10% have an adult height less than -2SD. Prior to any treatment there should be an attempt to diagnose the cause of the SGA. GH therapy is effective and well-tolerated in prepubertal SGA children, and leads to early catch-up growth and normalisation of adult height. Care of such children must include attention to potential insulin resistance. However, further studies are required to better define and identify medical, social, and psychological needs of these patients.