Sorry Works!

Summer 2019

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Scenario To Consider..

Mrs. Woods is a 53-year old woman who goes to the hospital for a CT-guided biopsy of the liver. Mrs. Woods believes the test shouldn't be a big deal, so she tells her husband to go the mall across the street and do some shopping. The technician assures Mr. Woods she will call him when the test is complete.

Mr. Woods is standing in the mall when his cell phone rings. He answers to hear a nurse frantically screaming, "Come quickly!"

When Mr. Woods gets to the hospital he learns his wife is dead….

Agenda for Today

- Teaching Disclosure to Front-Line Staff
  - Getting connected pre-event, staying connected post-event..**staff need to be taught! (and re-taught!)**
  - Sit down, say "sorry," then call someone
  - **Don't be the "BUT"**
- Resolving a case with leadership
- Q&A/Discuss Issues and Cases…

Teaching Disclosure to Front-Line Staff…

So, why do we do disclosure?

And, how do you communicate effectively post-event and stay connected with customers without prematurely admitting fault?

Why Do We Do Disclosure??

Ethical…right thing to do. Of course!

It's what we all want as consumers….

Also, smart thing to do!

- Shown to reduce lawsuits and litigation expenses and other "acts of revenge" (calling regulators, media, social media, etc), which saves $$$
- Shown to increase patient and resident safety…learn from events
- Shown to provide closure for all stakeholders, including clinicians --- **2nd victim issue**

So, how does this stuff actually work?

And, again, how do you communicate effectively post-event and stay connected with patients/families *without* prematurely admitting fault??

Understanding Empathy vs. Apology

- Empathy: "I'm sorry this happened...I feel bad for you..."
- Apology: "I'm sorry I made this mistake....it's my fault."
- **Empathy appropriate 100% of time...it's what people want**; apology appropriate only after a review
- All about staying connected post-event, and being pro-active
- **RUN TO THE PROBLEM!**

We can practice empathy every day!

Empathy after every day, "little" events.

- "I am sorry I am running late today….that must be frustrating for you."
- **"**I am sorry your dinner is late….I can see that is upsetting for you**."**
- "I am sorry your brother doesn't feel any better after the procedure…that has to be frustrating."
- "I am sorry the TV has been broken in your mom's room…let make a phone call and get this fixed right away."
- "I am sorry you have had to wait to go the bathroom…let me help you."

Empathy after every day, "little" events.

- Showing good body language
- Active listening skills
- Just giving the patient or family some *time*

Another way to practice empathy?

With each other!

- Say you are “sorry” to each other for every day frustrations
- Hard to build great relationships with patients and families if staff are mean and nasty to each other
- Staff that doesn’t work well together is more prone to making medical errors
- Re-set your relationships: Philadelphia story

- All of this empathy & empathetic statements with patients, families, and each other on a daily basis is great practice for…..

Adverse Events

So, what do you do now?

Empathetic I'm sorry

- Empathy: "I'm sorry this happened...I feel bad for you..."
- Apology: "I'm sorry I made this mistake....it's my fault."
- **Empathy appropriate 100% of time**; apology appropriate only after a review
- Run to the problem, stay connected

Empathetic I’m sorry

“Mrs. Smith, your mom’s surgery is over and she is in the ICU. I know you were looking forward to taking her home in a few days and that you have a big birthday party planned with grandkids this weekend. However, I’m sorry to tell you that the surgery didn’t work out the way we expected. I’m so sorry…”

Empathetic I’m sorry

“I can only imagine how upsetting this must be for you. Please know we are doing a review and will begin reporting back to you by 3 pm tomorrow afternoon…this review may take a few days or longer, but we will keep you posted…”

Empathetic I’m sorry

“Please understand your mom is receiving the best care possible and we are going to keep you posted on her progress…..”

Empathetic I'm sorry

"In the meantime, is there anything I can do for you? Food or transportation? Can I help make phone calls? Do you need a minister? Here's the business card for our quality leader….don't hesitate to call us. I feel so bad for you….I'm sorry."

Empathetic I’m sorry

- **Who said it?**
  - It depends!
  - Two people for moral support and witness function (if possible)
  - Remember body language! Eighty-five percent of communication is how you say (versus what you say).
  - Remember setting…location!

Empathetic I’m sorry

- **What was said…**
  - Speed: “I’m sorry” should be provided as soon as possible after adverse event.
  - Empathy personalized and feelings of patient/family acknowledged
  - Date/time specific – no “mush” statements – next meeting is scheduled
  - Taking the situation seriously
  - Customer service elements – **things we can do now! Way to shift conversation!**
  - Staying connected!

Empathetic I'm sorry

- **What was <u>NOT</u> said:**
  - No Admission of fault – yet! Do NOT prematurely admit fault or play retrospection game:
    - Only admit fault *after* investigation has proven a mistake occurred *and* error has causation to the injury or death.
    - Need to PAUSE!!
  - No jousting or speculation – not time to throw colleagues under the bus!
  - "We" (say "I" instead)

Empathetic I’m sorry

- **How do you document after empathy?**
  - The truth, the whole truth, and nothing but the truth!
  - Write down what you said, anything the patient or family said, and promised next steps.
  - No emotional statements or speculation & no derogatory remarks about patient, family, or colleagues.
  - **Flagging the chart or EMR**

After the Empathy….Call Somebody!

- *Immediately* after empathetic "I'm sorry" call somebody:
  - Supervisor
  - Administrator
  - DON
  - Risk Management….YES!
- **HOTLINE NUMBERS EVERYWHERE…MAKE IT "EXCUSE PROOF"**
- Don't sit on it! Get help conducting the review.
- Continue to stay connected with patient/family….**touch base weekly!!**

Key messages/lessons for front-line staff:

Sit down, say "sorry," then call someone

Don't be the "BUT"

This is what front-line staff in acute and long-term care need, but not enough are receiving it….

RESOLVING A CASE WITH HELP OF LEADERSHIP

Resolving A Case…3 Steps

- **Step 1:** Empathetic "I'm sorry" and customer service but no admission of fault – not yet! No speculation. Just staying connected! Call for help!

– PAUSE! –

- **Step 2:** Review with help of leadership
- **Step 3:** Resolution with help of leadership

Step 2: Review

You and leadership should….

- Involve outside experts…you don't want to look like you're grading your own papers!
- Move quickly! Shouldn't drag for months….longer it takes, less credible
- Stay in close contact with patient/family – touch base at least once per week
  - Interview patient/family! Learn a lot!

Step 3: Resolution – Review shows error…

You and leadership….

- Root cause analysis shows standard of care not met = error(s) or negligence
- Meet with patient/family and attorney
- "I am sorry this mistake happened."
- Compensation

  "How do we make this right by you?"

Recent Research, JAMA Internal Medicine, Fall 2017

- Consumers really want to be heard
- Treating clinician has to be in disclosure meeting
- Compensation must be pro-active and humane… "how do we make this right?"
- Attorneys can truly help the process
- Consumers want to know healthcare is going to improve…**and show them!**
- If teens/pre-teens involved, get them involved too
- Don't say "resolution"…say "reconciliation"

Tips on Having "The Meeting"

- Select a convenient and possibly neutral meeting place
- Clear your calendar
- Provide food, drinks, tissues, mints, etc – think like funeral director!
- Temperature, adequate number of chairs, lighting – think!
- Turn off cell phones and pagers (no vibrating!!)
- Sit down, eye contact
- Express gratitude
- Talk slowly, don't dominate conversation, allow patient/family to contribute…
- Silence/pregnant pauses OK
- S word
- Explain without technical jargon
- Check-in with patient/family
- Answer questions truthfully…OK to say, "I don't know."

Tips on Having "The Meeting"

- Let patient/family rant and rave
- Really listen
- Take notes? Ask….
- Tape recorders, notes, etc for p/f – yes!!
- Body language!!!
- Express gratitude
- Compensation (we've discussed this…)
  - How do we make this right by you?
- Disclosure may take several meetings
- Summarize
- Document
- Follow through….
  - Meet your promises!!!

Step 3: Resolution – Review shows NO error…

You and leadership….

- Root cause analysis shows standard of care met = NO error(s) or negligence
- Still meet with patient/family and attorney
- Continue to empathize, share records, explain
- Worst case: Agree to Disagree; document meeting
  - No never-ending circular conversations!!!

QUESTIONS?

Issues & Scenarios To Discuss

Recent peer-reviewed research – important issue:

Dossett et. al Specialist Physicians' Attitudes and Practice Patterns Regarding Disclosure of Pre-referral Medical Errors," Annals of Surgery, Volume 267, Number 6, June 2018.

Antunez et. al Alexis G, BA, Andrew G. Shuman, MD, FACS, Reshma Jagsi, MD, DPhil, Lesly A. Dossett, MD, MPH, FACS, "Ethical Duty of Health Care Systems to Address Interfacility Medical Error Discovery," Journal of American College of Surgeons, Volume 227, Number 5, November 2018

- Cancer MDs think another doctor made a medical error; majority of docs would not discuss or disclose error with patient…top reasons included wouldn't help patient/family anyway, might upset them; hurt referral relationships, etc.
- **How should you handle??**
- **What if patient suspects an error and wants YOU to throw "upstream" doc under the bus…how should you handle??**
- **What would you do if "upstream doc" doesn't play ball, or their practice/hospital/insurer won't let them play ball??**

Issues & Scenarios To Discuss

Interesting 2013 paper entitled, "Transgression confession: Ethics of medical errors disclosure," written by Jones et. al. The article starts and finishes with a surgical case whereby a patient experiences an elevated temperature after surgery, Dr. Almighty (the surgeon) informs the resident not to worry, even though the resident remembered a "break in the operative sterile technique" had occurred. The surgical site became painful, pus "exuded" from the wound, and the patient demanded to know what happened.

The article gives the reader five options to consider for the resident:
A. Keep her mouth shut
B. Tell the patient that would infections just happen
C. Tell the patient that a break in sterile technique was responsible
D. Refer the matter to the chief resident for advice
E. Tell the patient to ask the attending surgeon.

How would you advise the young resident? What should the young doctor do?

Issues & Scenarios To Discuss

The article's authors ruled out options A & B as not ethical or truthful. Option C was not chosen either as we are not 100% sure on the spot that the infection was caused by what the resident witnessed. Fair enough. Option D was dismissed because it is the duty of Dr. Almighty, the surgeon, to discuss questions and issues with his patient. So, E, "Tell the patient to ask the attending surgeon," is the correct answer.

But the article did not give a complete scenario.

- How should the resident respond if Dr. Almighty refuses to discuss the situation with the patient (or family)?
- Or what should be done if the Dr. Almighty gives an Option B answer ("infections just happen) and, furthermore, bills the insurance company for treatment to stem the infection?
- And neither did the paper discuss the technique or methodology for the young resident to refer the patient's original question ("how did this infection happen?") back to the already dismissive and possibly intimidating Dr. Almighty. **What should be done??**

Issues & Scenarios To Discuss

What if any red-hot, angry family wants to meet?

What if they bring a note pad, or plop a tape recorder on the table?

Issues & Scenarios To Discuss

Hiding behind HIPAA?

"We want the public to know that our hospital/nursing home addresses all complaints -- including lawsuits -- in a very serious fashion, and we are sorry this situation happened with the Smith Family. The door is always open to the Smith Family and their attorney, we look forward to working with them to address their concerns in a fair and expedited manner. In the meantime, we ask the public to withhold judgment about this lawsuit, including posting negative comments on social media. No family enters lightly into a lawsuit, and our doctors and nurses do their best every day. Instead, we ask that you keep the Smith Family and our doctors and nurses in your thoughts and prayers during this difficult time. Thank you."

Minnesota Hospital:

"We want to say again that we are truly sorry for our mistake. We immediately reached out to the family in 2013 to apologize and to try to help ease their loss. We have continued to work with their lawyer – always open to a reasonable resolution.

We also took immediate steps to ensure that this would not happen again. The Centers for Medicare and Medicaid Services reviewed and approved our updated processes in 2014. We continue to review these processes on an ongoing basis."

Issues & Scenarios To Discuss

- **Ever too late to say "I'm sorry?"**
- **What if patient continues to see you after lawsuit is filed?**
- **2nd Victim Support??**
- **Error happens to family member of physician…**
- **National Practitioner Data Bank**
- **Other issues or concerns you have???**

Issues & Scenarios To Discuss

The Olsen's 18-year old son suffers a major adverse error during surgery and is on life-support. You go to meet with the family to empathize and promise a review, but before you begin talking Mr. Olsen says, "One of the nurses told us there were several errors in the operating room…"

What do you say??

Issues & Scenarios To Discuss

Ms. Chavez has been your patient for the last 10 years. She had a Pap smear 6 months ago with results that raised concerns and a follow up with a specialist was recommended. Today, she is in your office today for her routine annual exam. Prior to knocking on the exam room door you review her chart and see the pap smear results but don't see that was she contacted by your office or that the specialist has been seen.

What do you say when you enter the exam room?

Issues & Scenarios To Discuss

Ms. Anderson is a 28-year old patient who has been in your hospital for the last 10 days…she is getting ready to be discharged, and she and her parents are very excited for her to be going home….BUT, an hour before discharge she suffers a major adverse event, is unconscious, and is taken to the ICU. Her distraught parents have one driving question:

> *"Who is going to pay for all this extra care??? Our daughter does not have very good insurance, and we're not rich….we thought she was going home, but now the meter is running again. How are we gong to pay for this?!?"*

What do you say to them??

Thank you for listening

- For more information visit Sorry Works! website at www.sorryworks.net
- Or contact Doug Wojcieszak at 618-559-8168 or doug@sorryworks.net
- Thank you!