Sorry Works!

Introduction to Disclosure, Empathy & Apology

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On August 28, 2024, the Centers for Medicare & Medicaid Services (CMS) is publishing a new regulation that will require hospital leaders to attest to whether they are taking steps to promote accountability and transparency around medical errors. The regulation, which takes effect on October 1, 2024, will require hospitals to implement the CANDOR system, which is a defined, evidence-based communication and resolution program that hospitals use after harm events. The regulation also requires hospitals to attest to whether they are taking other steps to promote and report patient safety, such as empowering hospital staff to confidentially report safety concerns.

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 to 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…

Another Scenario To Consider..

It's been a long day, and you are tired. Too many surgeries and also follow up visits with recovering patients. One of your nurses tells you a mother urgently needs to speak with you; no name is given. You walk out to the public waiting room, see the mother, she looks familiar but you can't put a name with the face. She appears distraught. You walk up and introduce yourself…

The mother replies, "Don't you remember me, Dr. Johnson?!? Well, you should! You sent my teenage daughter home two weeks ago saying she was 'fine.' She's not fine…she died at a different hospital this morning…"

Another Scenario To Consider..

Today you will meet a new patient, Mr. Smith. He just had a knee replacement operation by one of your competitors up the road, Dr. Jones.

Mr. Smith is not happy. In fact, he is ANGRY. Mr. Smith claims Dr. Jones "butchered" him. Mr. Smith wants to sue Dr. Jones and he wants you to say Dr. Jones committed malpractice!

What would you do?

Another Scenario To Discuss

The Olsen's 18-year old son suffers a major adverse event 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??

Agenda for Course

- The benefits of disclosure, including social media, regulatory complaints, etc
- Before "Sorry:" Building relationships pre-event
- 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," **listen**, then call someone
  - **Don't be the "BUT"**

Note: This is not an apology talk, per se. However, everything in this presentation can lay the ground work for an authentic apology, when necessary.

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??

Before "Sorry.."

- Before "sorry"…remember to build relationships
- It is hard – not impossible – to do mean things to people you like.
- The story of two young OB/GYNs…..
- Are you a human being or a robot?
- The importance of sitting, give a solid five or 10 minutes, active listening skills, and staying connected

Before "Sorry.."

- What if you don't have a long time to build relationships?
- Southwest Airlines….
- Other service industries….
- The "million dollar moment" and all the moments to follow.
- **Are you likeable?** Or are you the needy, self-absorbed individual people respect but don't like??

Teaching Front-Line Staff Continued…

Adverse Events

So, what do you do now?

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!**

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, how else can we support you? Food or transportation? Can I help make phone calls? Do you need a minister? Is there anyone you want to meet with, or certain information you need? Here’s my business card….don’t hesitate to call me. What is your contact information? 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
  - Meet needs…including info and meetings
  - Customer service elements
  - Taking the situation seriously and 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* a review 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!
  - No technical jargon….use plain language
  - Don't promise the moon

Empathetic I’m sorry

- **What about over the phone?**
  - More challenging, but stick to same principles…empathy first, promise a review
  - Active listening…make sure they feel heard
  - Speak slowly, no technical jargon
  - Make sure they understand
  - Ask how ask you can help?
  - Schedule the next meeting or conversation…

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," listen, then call someone

Don't be the "BUT"

What happens after "sorry?" How can difficult cases be resolved without litigation? It can be done….

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
- (Often done as part of disclosure program)

Step 2: Review

You and leadership should….

- Involve outside experts…you don't want to look like you're grading your own papers!
  - **Michigan Question**: Are we proud of care?
- 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
  - Designate point person for patient/family
  - Continue to meet needs of patient/family
  - Interview patient/family! Learn a lot!
- Hold all bills; stop marketing and fundraising letters (**Westhoff family story**)

Step 3: Resolution – Review shows error…

You and leadership….

- Root cause analysis shows standard of care not met = error(s) or negligence; not proud of care
- Meet with patient/family and attorney
- "I am sorry this mistake happened."
- Compensation
  - "How do we make this right by you?"
  - Listen for financial and emotional needs
  - Chance to be creative and meaningful

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"

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?

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