NEXT WAVE

"We Understand Health Care"

Policy White Paper – Malpractice Impacts: Communication Between Patient and Physician

Communication, the interchange of factual information between patient and their physician, is not just very important – it is essential.[1] The patient is frequently the only source of information needed to complete portions of their clinical history. A comprehensive history in turn facilitates the deductive process of arriving at an accurate diagnosis and formulating an effective treatment plan. Lack of effective communication contributes to many of the preventable and ameliorable adverse events observed in health care delivery today.[2]

Of even greater impact is the increased likelihood that a patient will initiate litigation due to an unexpected poor outcome – whether there is actual negligence or not. Many already understand that physicians who have poor relationships with their patients are more likely to be sued. However, the degree of impact that communication has on malpractice claims substantiated in literature[3,4,5] is far greater than most expect. When combined with a finding that 20% of adult patients report difficulty communicating with their doctor[5], the potential impact on malpractice claims is enormous.

Establishing Rapport with the Patient is Critical in Building Trust and Patient Satisfaction

A close and caring relationship between the patient and his doctor is the hallmark of medical profession.[1] The patient is usually anxious coming to the hospital, but may be put at ease with a genuine caring attitude of his doctor, delivered with a smile. Unfortunately, professionalism in medicine is on a slippery slope as a result of competitive bottom-line oriented managed care system and the litigious hassle accompanying medical practice in today's society.[1] However with good self-discipline, doctors can learn to be adept at leaving the aggravation in the hallway before entering the patient's room. By listening with undivided attention and good eye contact with the patient, doctors can convey a sense of real concern towards their patients and earn their trust.[1]

The physician's characteristics and communication styles are important to understand impacts on their malpractice suits and the amount paid to settle those claims. Physicians who had better rapport with their patients, who took more time to explain, and who were more available had fewer malpractice suits.[4] Doctors with good rapport possessed the virtue of relating to the patient and treating the person, not just the disease. The doctor who takes time to explain, describes the disease process to the patient and his family, discusses alternative treatments available, and answers questions patients have about their treatment (this includes returning phone calls from anxious patients), score very high on patient satisfaction scales. The doctor who makes themselves and their staff available to the patient at their convenience rather than the convenience of the office had fewer malpractice suits. Any claims these physicians do have are frequently settled out of court for less money.

Time Spent with the Patient vs. Number of Claims – "Ten and Two are Good for You".
Perceived ease of access to the physician and time allowed for visits predicts claims experience. As the time spent increases, even by modest amounts, the number of claims decreases significantly. Doctors with:

- No claims spent 50 minutes on new patient visits and 16 minutes on follow-up visits.
- Low claims (0.2 claims/year) spent 40 min. for new and 14 min. on follow-up visits.
- High claims (0.2-0.5 claims/year) spent 27 minutes on new and 12 minutes on follow-up visits. [3]

The most common complaint in the latter group was that the doctor appeared rushed and uninterested and did not pay much attention to the patient's complaints of continuous pain and discomfort. When pain is ignored, patients get angry and consider suing their doctor.

Communication Increases Adherence, Reduces Adverse Events
Communication between patient and doctor increased the patient's adherence to follow up exercises and activities such as physical therapy, increased compliance with medication and follow-up appointments.[3] It increased patient's trust in their doctor and decreased patients' withholding of information. This could be due to a patient's anger that the physician doesn't seem to care about them, or they are intimidated by a rushing or distracted physician – and "don't want to bother the busy doctor." When the doctor and patient work as a team, it becomes easier to identify problems early on and treat them. It creates overall a sense of responsibility on the part of patients who feel they are well informed to take care of their own health, and it reduces length of stay at the hospital. Where problems exist, most patients complained of not being told enough, especially about postoperative recovery.[3] Many patients did not undergo sufficient physiotherapy after surgery, and many others returned with infections and other adverse outcomes that could have been prevented in the first place with open communication and direction from the physician.

Patient Perception of Their Doctor's Attitude is Key
Many patients have high expectations for complete recovery from their surgery. Doctors need to develop a positive relationship with their patients and fully discuss pre-surgical risks, expectations and treatment options.[1] Orthopedists are concerned over their perceived poor relationships with patients. They recognize that some patients see them as arrogant, egocentric, decisive, confident, charging high fees and self-interested rather than having the patient's welfare at heart.[4] They can use their professional diagnostic skills to examine friction with their patients, and recommend a treatment to their approach with patients that will help the patient perceive that they are more compassionate, warm, kind, gentle - in essence practicing what is commonly accepted as the art of medicine. The occurrence of a malpractice suit is most often the result of failure to practice the art of medicine by the orthopedist rather than a failure to apply the science of orthopedics.[1]

From a malpractice attorney's view, patient dissatisfaction, unrealistic treatment expectations by either party, problems associated with informed consent, and diagnostic or procedural errors due to lack of effective communication are all contributing factors to many malpractice lawsuits.[6]

Corrective Measures

There is a need for well-rounded training. The increasing need to learn technical skills in orthopedic residency programs is being accomplished at the expense of treating the "whole person".[4] In addition to mastering high technical skills, their residency training should include curriculum on doctor-patient relationships similar to the American Board of Internal Medicine.

The orthopedists must be encouraged to enroll in continuing medical education credits for learning risk management.[5] A better understanding of their relationships "through the eyes of the patient" will go a long way towards treating patient-doctor relationships. Qualifying activities should include seminars about improving patient communication and office practices.

Office practices can be either part of the problem or part of the solution to patient relationships. The patient's experience with the physician begins when they pick op the phone or walk in the door. If they are welcomed, treated with respect, listened to attentively, and made to feel that their time is valuable as well – the good first impression will carry over to the physician. If, on the other hand, they are ignored, made to feel unimportant and sit in a waiting room for a long time, the patient may already be angry when they "finally" get to see the physician – the seeds of a malpractice suit may already be planted should an unexpected outcome occur. The astute orthopedist who recognizes that their people skills aren't as well developed as their technical skills will be sure to hire office staff that exude a friendly and welcoming attitude to their patients, and empower them to be the patient's primary point of contact with the practice.

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