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How I talk to Patients about Poor Outcomes

1. Royalties: Arthrex, Elsevier
2. Consultant: Arthrex
3. Miscellaneous Support: Arthrex
4. Basic Science/Research Support: Arthrex, Smith and Nephew, Ossur, Mioned, DJOrtho, Conmed Linvatech, Athletico
5. Editorial Board: Orthopedics Today (Chief Medical Editor), Journal of Shoulder and Elbow Surgery, Techniques in Shoulder and Elbow, Techniques in Sports Medicine, Sports Health, Orthopedics
6. Publisher Support: Elsevier (Textbook), Orthopedics Today

Definition of Bad Result (Outcome)

- Result that does not meet the PATIENT’S expectations
- Final functional outcome is poor
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What leads to a bad outcome?

• Surgical Complications (infection, etc.)
• Medical Complications (DVT, PE, MI, etc.)
• Wrong diagnosis
• Poor communication (informed consent?)
• Technical error
• Wrong-site surgery
• Unrealistic patient expectations

3 years after meniscal allograft with HemiArthroplasty

Analysis of 464 consecutive closed malpractice claims from single insurer of medical liability (1995-2009)

• The Doctors Company (Napa, California)

Failure to protect structures in the surgical field, accounting for:

• 41% ($7,354,399) of total payments ($17,917,614)
• 15% of the 464 claims (impact factor 2.7)

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Surveys to 5540 AAOS fellows → 917 returned
• **483 (53%)** → reported an observed medical error in previous 6 months
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Why are bad results difficult for us to manage?

• LIABILITY
• MALPRACTICE
• $$$ + REPUTATION

EGO:
A person’s sense of self-esteem or self importance

“ego” is the only requirement to destroy any relationship
So, be a bigger person skip the “e” and let it “go”!

Infected Total Shoulder

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Physicians Facing Lawsuit

Cumulative Career Probability of Facing a Malpractice Claim or Indemnity Payment, According to Risk of Specialty and Age of Physician

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1) A desire to prevent a similar bad incident from happening again
2) A need for an explanation as to how and why an injury happened
3) A desire for financial compensation to make up for actual losses, pain, and suffering, or to have funds for future care
4) A desire to hold doctors accountable
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Malpractice: Love thy Patient
Edward J. Nutter, MD

2003

“The occurrence of a malpractice lawsuit is more often the result of the failure to practice the art of medicine by the orthopaedist rather than a failure to apply the science of orthopaedics.”

Key: Communication

Cornerstone of the physician-patient relationship

Patients do not sue doctors they LIKE and TRUST

Patient Communication is Key

• Proper words
• Ability to listen to patient
• Ability to interact with patient and family
• Response to emotions
• Re-set expectations
• Shared decision making
• Provide hope

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What do Patients really want?

The Truth

- Honesty
- Better understanding of the problem
- Possible causes?
- Potential solutions?

Surgeon Obligations

- Shared decision making
- Legal precedence
  - Must provide as much information as a peer
  - Challenging due to emotional and ego constraints

Permission granted in the knowledge of the possible risks/benefits for treatment

Nonverbal Communication

2/3rds of your communication!

Eye contact
Distance
  - Sit down
Paralanguage
  - Voice quality
  - Rate, pitch, volume
Touch
  - When appropriate
Stable emotions
Be sincere

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Better Patient-Physician Communication =

- Improved understanding by the patient
- Improved patient compliance with further care
- Opportunity to strengthen relationship despite result

Barriers to Communication

- Personal anxiety over bad result (Ego?)
- Burden of responsibility
- Concern that the patient will think poorly of you
- Influence and observations of the support staff

Surgeon’s Leadership Role

- Lead the Healthcare team
- Be the calm among the storm
- Patient at the center of care model

Always: “What is best for the patient”
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Set Discussion Goals

1) Know your patient
2) Provide clear information
3) Communicate
4) Develop strategy

Know your patient
(Make it personal)

- Review the chart
  - Initial evaluation
  - Demographic/Social
- Why did they come to your office?
- Major complaint?
- Listen
  - What is their understanding?
  - Expectations?
- “Edit” misinformation

Listen

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Provide Clear Information

• Terms and concepts understood by patient
• Focus on Key facts
  • “in my experience…”
  • Evidence-based decisions
  • Be confident
• Patient specific correlations
• Avoid negative words and statements

Negative Words or Comments

• Be a positive force in the communication process
• Avoid agreement with negative or irrational conclusions
  – “I might as well have my arm cut off”

Emotions:
Instinctive or intuitive feelings as distinguished from reasoning or knowledge

• Listen
• Respond
  ➢ acknowledge
• Be empathetic
• Stay focused on what you can influence

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Apologize

Apologizing:
Does not mean that you are wrong, and the other person is right.
It means that you value your relationship more than your ego

Develop a Strategy to provide Hope

• Provide Hope
• Power of the human mind and spirit
• Adjust patient expectations
• Small victories mean a lot

Failed RCR ➔ Reverse TSA
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May 2014 Commentary

Take Home Points

• Patient communication is key
  • Be honest
  • Anticipate emotional responses
  • Understand your own anxiety
• Set discussion goals
  • Know your patient
  • Ask patients what they think went wrong
  • Provide clear information in “normal” language
  • Develop ability to communicate
  • Develop a strategy
• Give patients hope
  • Do everything you can, and say that

Thank you!

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Thank You!