



Communication

Strategies to

Help Patients

H.E.A.L.

*James W. Saxton, Esq., Patricia M. Kearney, RN, MPA, ARM, DFASHRM,
Laurence H. Baker, PhD, Sandra W. Reifsteck, RN, MS, CNAA, FACMPE*

Communication

Strategies to

Help Patients

H.E.A.L.

*James W. Saxton, Esq., Patricia M. Kearney, RN, MPA, ARM, DFASHRM
Laurence H. Baker, PhD, Sandra W. Reifsteck, RN, MS, CNAA, FACMPE*



Communication Strategies to Help Patients H.E.A.L. is published by HCPro, Inc.

Copyright 2006 HCPro Inc.

All rights reserved. Printed in the United States of America. 5 4 3 2 1

ISBN 1-57839-836-3

No part of this publication may be reproduced, in any form or by any means, without prior written consent of HCPro or the Copyright Clearance Center (978/750-8400). Please notify us immediately if you have received an unauthorized copy.

HCPro, Inc., provides information resources for the healthcare industry.

HCPro, Inc., is not affiliated in any way with the Joint Commission on Accreditation of Healthcare Organizations.

James W. Saxton, Esq., Author
Laurence H. Baker, PhD, Author
Patricia M. Kearney, RN, MPA, ARM, DFASHRM, Author
Sandra W. Reifsteck, RN, MS, CNAA, FACMPE, Author
Debra Beaulieu, Managing Editor
Lauren Rubenzahl, Copyeditor
Mike Mirabello, Senior Graphic Artist
Matthew Sharpe, Cover Designer
Jean St. Pierre, Director of Operations
Michele Wilson, Executive Editor
Lauren McLeod, Group Publisher

Advice given is general. Readers should consult professional counsel for specific legal, ethical, or clinical questions. Arrangements can be made for quantity discounts.

For more information, contact:

HCPro, Inc.
P.O. Box 1168
Marblehead, MA 01945
Telephone: 800/650-6787 or 781/639-1872
Fax: 781/639-2982
E-mail: customerservice@hcpro.com

**Visit HCPro, Inc., at its World Wide Web sites:
www.bcmarketplace.com and www.hcpro.com**

06/2006
20876

CONTENTS

About the authorsiv
Introductionv
Chapter 1: The relationship account1
Chapter 2: Disappointments in healthcare5
Chapter 3: H.E.A.L. disappointment9
Chapter 4: The learned skill of communication19
Continuing Medical Education instructional guide25
Related products from HCPPro, Inc.39

ABOUT THE AUTHORS

James W. Saxton, Esq., is a partner with the Pennsylvania law firm of Stevens & Lee, PC, where he is chairman of the firm's Health Care Litigation Group and cochair of the firm's Health Law Group.

Laurence H. Baker, PhD, is an associate professor for the Department of Medicine at Oregon Health Sciences University. He concentrates his work on healthcare communication.

Patricia M. Kearney, RN, MPA, ARM, DFASHRM, is a risk-management advisor for Stevens & Lee, PC, and a member of the faculty of the Institute for Healthcare Communication.

Sandra W. Reifsteck, RN, MS, CNAA, FACMPE, is on the adjunct faculty at the University of Illinois College of Nursing and is a member of the faculty of the Institute for Healthcare Communication.

INTRODUCTION

Emotional perceptions—not just medical outcomes—are often pivotal in a patient’s decision to sue. Patients usually base their evaluations of provider competence not on the quality of the care provided but on the way they feel during and after an encounter with a physician. As a result, patients are more likely to suspect a mistake, or even a cover-up, if physicians seem evasive or reluctant to communicate with them following an unexpected outcome.

Thus, patients are more inclined to sue a caregiver who doesn’t make himself or herself available for discussion or whose manner is indifferent, arrogant, or rude when the patient or family requests information or an explanation. Such behavior is also more likely to negatively influence a judge or jurors (who are patients, too) and result in a verdict for the plaintiff, with a large award to punish the clinician.

Conversely, plaintiffs’ lawyers are less likely to take cases in which it appears the clinician has done everything possible to communicate truthfully and empathetically with a patient.

Communication Strategies to Help Patients H.E.A.L.

Research supports these notions. In a study conducted by Wendy Levinson, MD,¹ published in *The Journal of the American Medical Association*, positive communication behaviors of physicians were associated with fewer malpractice claims. Likewise, Howard Beckman, MD, et al., concluded in their study “Lessons from patient depositions”² that patients often associated the decision to litigate with a perceived unavailability, lack of caring, poor delivery of information, and lack of understanding from the physician.

When asked what brings clients to their office, plaintiffs’ lawyers often say that patients went to them to get information about their complication or were angry about how they were treated. That needs to change.

As healthcare providers, you must build patient trust by encouraging questions in all healthcare encounters. When the outcome is not what was expected, that trust will encourage the open discussion to get the information patients need. Recognize that, after a complication, a patient needs you more than ever—not just for medical treatment, but also for information and support.

About this handbook

This handbook will help you understand how the dynamics of communication in healthcare differ from those of other day-to-day or business conversations—especially when a patient has experienced a disappointing health outcome. You will learn what patients and their families expect from caregivers after an adverse event and how to respond in a way that thwarts litigation and fosters healing for all involved.

This handbook also includes a self-assessment that you can use to get a better sense of your communication strengths and weaknesses, as well as a personal action plan for improvement. Finally, don't forget to take and submit the exam at the end of the handbook to be eligible for one continuing medical education credit.

Endnotes

1. W. Levinson, D.L. Roter, J.P. Mullooly, V.T. Dull, and R.M. Frankel, "Physician-patient communication: The relationship with malpractice claims among primary care physicians and surgeons," *The Journal of the American Medical Association* 277, no. 7 (1997): 553–559.

Communication Strategies to Help Patients H.E.A.L.

2. H.B. Beckman, K.M. Markakis, A.L. Suchman, and R.M. Frankel, "The doctor-patient relationship and malpractice: Lessons from plaintiff depositions," *Archives of Internal Medicine* 154 (June 1994): 1365–1370.

CHAPTER 1: THE RELATIONSHIP ACCOUNT

To understand how communication in healthcare is unique, think of the relationship between you and your patients as a bank account with deposits and withdrawals. With a friend or colleague, a compliment or simple “thank you” could serve as a deposit, whereas lying to the person or making a rude comment would draw from the relationship.

But in your role as a physician, the act of providing good care alone forces you to make regular withdrawals from your relationships with patients. For example, some procedures and examinations can be painful or embarrassing. Sometimes you have to give bad news or tell other adults what to do (e.g., lose weight, exercise more), which may diminish the positive feelings patients feel toward you.

Most patients are grateful for the technical skills and clinical acumen that physicians bring to their care. But sometimes those deposits may not be enough, especially when the account gets hit with a big debit, such as a disappointing health outcome or a medical error.

Communication Strategies to Help Patients H.E.A.L.

Communication skills provide the most high-leverage deposits you make into the relationship account. And you can make these deposits frequently, before any big withdrawals, and with little extra time. In fact, some studies show that these core communication skills can even create time efficiencies for patients and physicians.¹

Make deposits early and often

All of us, including our patients, want to be heard. We value relationships with people who listen—really listen. And letting patients know that you see them as people goes a long way. For example, a patient would much rather be known as the proud grandmother who grows dahlias than as the 62-year-old female with mild hypertension and arthritis.

Patients also value relationships in which their self-esteem is validated. That doesn't mean giving compliments; rather, it means validating patients' self-esteem by inviting their ideas about the health issues you are discussing. Even if patients don't have anything more to contribute, the act of asking for their thoughts is a huge deposit in the relationship account. When you invite patients' ideas, try to honor them, even if they may not be what you had in mind.

Incorporating patient ideas into the plan, when appropriate, is always a plus.

When our feelings are acknowledged and validated, we feel strongly connected and loyal to the person who has made this connection. Healthcare matters elicit many kinds of feelings: worry, frustration, anxiety, sadness, and relief. Physicians who engage patients in discussing their feelings build a strong bond that can weather big withdrawals from the account.

Figure 1.1

PHYSICIAN-PATIENT RELATIONSHIP WITHDRAWALS/DEPOSITS	
Withdrawals	Deposits
Telling what to do	Listening
Discomfort	Self-esteem
Disappointment	Patient's ideas
Waiting	Empathizing
Giving bad news	Being a person

Reference

1. K.M. Mazor et al., "Health plan members' views on forgiving medical errors," *American Journal of Managed Care* 11, no. 1 (2005): 49-52.

