

# Preventive Action

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## Effective Dentist-Patient Communication

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*Communication is both a science and an art. It is also a significant motivating factor upon which malpractice claims are pursued and avoided. Inadequate, inappropriate, or ineffective communication increases the chances of diagnostic error, non-compliance, poor outcome, and the likelihood of being sued. Conversely, effective communication improves diagnostic accuracy, enhances patient decision-making and increases the likelihood of adherence to therapeutic regimens. Essential for dentist-patient rapport, good communication prevents erosion in the dentist-patient relationship, a significant challenge since the advent of managed care. By establishing realistic patient expectations, nonmeritorious claims can be avoided and patient satisfaction levels increased notwithstanding the constraints imposed by today's healthcare delivery system.*

Professional liability closed claim data compiled by the Physician Insurers Association of America (PIAA) from 1985 to 2001 reveals that unrealistic patient expectation is a primary factor for initiating claims in the absence of performance error. Unrealistic expectations are often attributed to communication errors. Admittedly, effective dentist-patient communication can be challenged by a variety of factors, such as diversity in age, intellect, education, and ethnicity. Even gender can be the basis for poor communication. Communication experts indicate that males tend to emphasize talking rather than listening in conversation and use more commands, while females tend to emphasize listening and sharing. Tangible factors such as the environment may also serve to compromise the ability to adequately communicate. It's difficult for most people to effectively communicate when in pain or under stress, particularly in a clinical setting.

### RISK MANAGEMENT TECHNIQUES

The most important clinical encounter, in terms of establishing good rapport, is the initial patient contact. Experts point out that the initial clinical encounter, a one and one half minute opportunity, profoundly affects all subsequent interactions. It may also represent your best opportunity to avoid a claim. According to PIAA claim data, the diagnostic interview, evaluation, or consultation is the most prevalent "procedure" resulting in malpractice claims. Both verbal and non-verbal signals create the initial impres-



sion. To establish a positive perception, avoid examining the chart or x-rays during your initial contact, or while the patient is speaking. Failing to do so creates the impression that you are ignoring the patient. Clinical body language often sends powerful signals. Avoid folding arms together over your chest when the patient is talking. Such body language may be interpreted as being aloof or distant. Likewise, rapid and frequent head nodding while the patient is talking tends to send the signal that you are rushed or disinterested in what is being said. Clearly, such signals are purely perceptual, but that is what the initial encounter is all about. Positive non-verbal signals include adopting a slight upper torso forward lean towards the patient or person speaking, establishing eye contact, nodding your head to communicate understanding or empathy, reactive facial expressions, and the use of physical contact, such as shaking the patient's hand or patting their shoulder. Important verbal signals include use of the patient's name, open-ended questioning, and prompters such as "So?," "And?," or "Such as...".

### Techniques for Initial Contact

- Introduce yourself by name
- Use pleasing facial gesture
- Make eye contact
- Make physical contact (hand shake, touch arm)
- Use a positive opening phrase

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- Ask the patient how they wish to be addressed
- Use the patient's name
- Open discussion with a question
- Listen when the patient speaks – look at the patient
- Provide an explanation before performing

The last one to one and one half minutes of the initial contact is also important. Ask the patient if they understand or have any questions. Look at the patient when being spoken to – avoid turning your back to the patient while anyone is speaking. Don't conclude your final conversation enroute to the door or when walking away. Confirm the patient's treatment plan or follow-up. This will serve to reinforce "buyin" by the patient and facilitates compliance. End the initial contact with a reinforcing type of physical contact. When appropriate, personally escort the patient to the reception area. At a minimum, use the patient's name at the beginning and at the end of interaction.

### **Techniques for Effective Communication**

Developing listening skills is essential for effective communication. Listening may be categorized as active, reflective, and empathic. Active listening entails the turning of your head or eyes toward the patient and nodding occasionally while using facial expressions of acknowledgement. Reflective listening entails repeating key words and phrases that the patient has used. Empathic listening entails acknowledging the patient's feelings or concerns. Developing these types of listening skills will facilitate good rapport and effective communication. As a loss prevention measure, unrealistic patient expectation can be minimized if not avoided.

### **Unexpected vs. Unacceptable Outcomes**

It is important to increase your communication with the patient should a complication or unexpected outcome arise. It is at these times that many patients feel abandoned. Maintain rapport by explaining why the complication may have occurred. Avoid becoming defensive. Frequently, the primary motivating factor for litigation in the face of a complication is the patient's feeling that their questions have been inadequately addressed. This leads to frustration, disappointment, and ultimately anger – often vented by visiting an attorney.

### **Staff Communication: Liability or Asset?**

From a risk management standpoint, effective communication must extend to your staff. It is the office staff that represents the first, last, and most durable impression of your practice. Often, it is through your office staff that the majority of information is exchanged. All levels of staff should be trained regarding the importance of effective communication and applies to each form of communication entailing your practice. The same risk management principles pertain to communicating by phone, fax, e-mail, written correspondence, advertisements, promotional material, educational brochures, and even your financial policy. Staff communication should be an asset to your practice and not a liability. Inform staff of the following practices that undermine rapport and cause patient dissatisfaction:

- Ignoring a patient standing at the reception desk
- Failing to answer the telephone by the third ring
- Not knowing or misspelling the patient's name
- Failing to apologize
- Admonishing others in front of the patient
- Sending mixed signals on fees and payment options

While there may be some truth to the adage that "nice guys finish last," from a liability standpoint they are also the least likely to be sued. Remember: 60-90 percent of clinical time is spent communicating with patients. Don't allow inadequate, inappropriate, or ineffective communication to undermine your dentist-patient relationship, or increase your chances of being sued.

# Rx LOSS PREVENTION

*Case Study: A forty-two-year-old male business owner complained of chronic and severe oral pain for three weeks. In addition to the severe pain, the patient also experienced swelling of the jaw and neck. On the sixth visit with his general dentist, the patient underwent a root canal. The patient's medical history included atrial fibrillation managed by chronic anticoagulation therapy; however, a medical history was not noted in the dental record. Prior to the procedure, the patient's history was not evaluated and the patient's anticoagulation therapy was not evaluated or adjusted. Due to multiple factors, including anxiety and severe discomfort, the patient received parenteral sedation with Versed and Demerol. Romazicon was administered at the conclusion of the procedure. Ten minutes after the procedure was ended, the patient was assisted to the bathroom. Enroute the patient became short of breath, lost consciousness, and fell to the floor. EMS was called to the scene. Resuscitative efforts were unsuccessful. Cause of death at autopsy was respiratory arrest.*

*Dental records did not reflect a review of the patient's history, discussions related to informed consent for the procedure, a pre-procedure evaluation, the dosage and timing of medication administration, nor any patient assessment during or after the procedure.*

*Defense experts were unable to support the level of care provided. Consequently, the case was settled on behalf of the dentist for \$775,000.*

## HIPAA Alert

### ELECTRONIC TRANSACTIONS DEADLINE APPROACHING

The Health Insurance Portability and Accountability Act (HIPAA) impacts several elements in a dental practice, including privacy, security, and electronic transactions. Currently, there are hundreds of formats for electronically transmitting health information. HIPAA's Administrative Simplification provisions mandate one standard format for electronic transactions involving protected health information. The intent of these provisions is to streamline the transmission of health information by standardizing the format and reducing inefficiencies created by the use of varying formats. Providers who conduct transactions electronically, such as electronic claims processing, must comply with these standards. The deadline for compliance with the standardized format for electronic transactions is approaching. Originally, all dentists who transmit health information electronically were to begin using the standardized format by October 2002. The deadline for compliance has been extended until October 16, 2003. However, to qualify for the extension you must file a plan for compliance with the Secretary of Health and Human Services by October 16, 2002. Providers using paper transactions may be exempt from these standards.

Final revisions to a number of the requirements originally set forth by HIPAA are not expected until later this year. For this reason, further updates pertaining to HIPAA will be made. Additional information may be obtained at the websites below.

Resources:

[www.hcfa.gov/hipaa/hipaahm.htm](http://www.hcfa.gov/hipaa/hipaahm.htm)

<http://aspe.hhs.gov/admsimp/pl104191.htm>

[www.cms.hhs.gov/hipaa/hipaa2/ASCAForm.asp](http://www.cms.hhs.gov/hipaa/hipaa2/ASCAForm.asp)

## Risk Management Website

The FPIC website has recently been redesigned, including an extensive revision to the Risk Management section.

You can find a variety of useful information on the website including:

- Risk Management Staff Directory
- Risk Management Products and Services
- Presentations available for CME/CE credit
- The complete manual, *Dental Reference Tool*
- Numerous reference guides
- Frequently asked questions
- Publication order form
- Current and back issues of *Preventive Action*

Access the website at  
[www.medmal.com](http://www.medmal.com)



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### Can exposures to violence in the workplace be reduced?

Yes. To decrease your exposure to violence in the workplace:

- Provide adequate lighting for entrance/exits and parking areas for employees and visitors.
- Provide escorts or arrange travel partners for employees who must enter or leave the facility before or after business hours.

- Educate staff members on how to effectively deal with complaints from angry patients.
- Contact the police if threats are received (via phone, mail, or other means).
- Contact patients (personally if possible, or by mail) before turning their accounts over to a collection agency.
- Ensure that the collection agency's tactics are acceptable. (Periodically review the letters sent to your patients.)
- Monitor the number and source of complaints; be alert for trends.
- Work to fairly resolve complaints from patients and employees.
- Ask for feedback from employees regarding problem areas, such as how to make their jobs more satisfying.
- Don't chastise or humiliate employees in front of others.

### What action should be taken when a patient discharges a physician?

Document the dental record and send written confirmation to the patient specifically indicating the date that you were terminated by the patient. If the patient is in the midst of diagnostic work-up or treatment, advise the patient of their need to continue such care with another dentist.

Warn them of the potential consequences in failing to do so. Offer to furnish a copy of the dental record, upon receipt of the patient's written authorization. Send this letter certified mail, as well as via regular mail.

### Must a physician supply an interpreter at the request of the patient?

Yes, in compliance with the Americans with Disabilities Act. The expense incurred in providing interpreter services may be used as a write-off for tax purposes. Informed consent and pertinent patient educational materials should also be provided in the appropriate languages, if common to the area.

### Is it acceptable to fax patient information?

Yes, providing patient confidentiality is protected. Use a fax transmittal form. Phone the recipient of the fax to confirm its transmission. Document the name of the person who received the fax and the date and time it was received. A copy of your fax transmittal and confirmation of its receipt should be filed in the patient's chart. Adhere to all state laws and regulations when subsequently relaying this information to a third party.