ADMITTING MISTAKES: ETHICAL CHOICES AND REASONING

Mark S. Hochberg, M.D.
Department of Surgery
New York University School of Medicine
GOALS AND OBJECTIVES

• What is a medical mistake?
• Ethical choices when confronted with a medical mistake
• Reporting a medical mistake to colleagues
• Reporting a medical mistake to the patient/family
• My emotional response to a mistake I commit
MEDICAL MISTAKE

• There is close to a 100% chance you will be sued during your medical career
• Doctors, like all professionals, can and do make mistakes that can adversely affect a patient’s course – as well as their own careers
GREY’S ANATOMY VIDEO CLIP OF A SURGICAL MISTAKE

- Operating room scene
- Elevator scene
GREY’S ANATOMY VIDEO CLIP OF A SURGICAL MISTAKE

• Operating room scene – what should she do?
• Elevator scene – did peer give her good advice?
WHO’S AFFECTED BY THIS SURGICAL MISTAKE?

• The patient
• The family/support group
• The surgeon
WHAT IS A MISTAKE? (Adverse Event)

Any untoward incident, therapeutic misadventure or iatrogenic injury directly associated with care provided during the course of a patient’s hospitalization or outpatient care
WHAT YOU SHOULD DO AFTER A MISTAKE HAS OCCURRED

• Regardless of involvement, it is the physician’s duty to assess the patient and immediately provide treatment.
• Patient care always comes first
SURGEON’S OBLIGATIONS

• Patient/family: How do I present to the patient/family that a mistake has been made?
• Institutional: what are the reporting requirements to the hospital and licensing agencies?
WHAT IS A MISTAKE?
(also known as an ADVERSE EVENT)

ERROR vs. COMPLICATION
<table>
<thead>
<tr>
<th>ERROR</th>
<th>COMPLICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wrong sided surgery</td>
<td>CVP -&gt; pneumothorax</td>
</tr>
<tr>
<td>Transfusion to wrong patient</td>
<td>Enterotomy</td>
</tr>
<tr>
<td>Dosage mistake</td>
<td>Dehiscence of a bowel anastomosis</td>
</tr>
<tr>
<td>CABG to coronary vein, not artery</td>
<td>Spleen laceration</td>
</tr>
<tr>
<td>Common duct transection</td>
<td>Ureteral transection</td>
</tr>
<tr>
<td>Retained foreign body</td>
<td>Colon perforation during colonoscopy</td>
</tr>
</tbody>
</table>
ERROR

- Residents must report an error to the Chief Resident
- Chief Residents must report errors to the Service Attending
- Attendings have an obligation to report an error to Department of Quality Assessment/Risk Management
- Emotional and professional costs to the resident
COMPLICATION

• Report a complication to Chief Residents
• Chief Residents must report errors to the Service Attending
• Service Attending makes judgment about whether to report to Risk Management
• Emotional and professional costs to the resident
PATIENT DISCLOSURE

NYUMC policy

Each patient and their designated family members are entitled to information about the outcomes of diagnostic tests, medical treatment, and surgical intervention, regardless of whether the outcomes are anticipated or unanticipated.
DISCUSSING ERRORS AND COMPLICATIONS WITH PATIENTS/FAMILIES

- Body language can be up to 90% of conversation
- Private setting: sit down and make eye contact
- Be straight forward – reveal facts – not defensive
- Tell the truth
- Avoid jargon or euphemisms
- Do not deflect responsibility
- Express regret
- Address what happens from here – be prepared for questions – continuing commitment
- Ethical and compassionate conversation has been shown to mitigate legal liability
HOW YOU CAN ACCEPT THAT YOU HAVE MADE A MISTAKE

• Realize that surgery is imperfect and errors/complications occur
• Obligation to re-double your efforts to insure all further aspects of patient’s care are perfect
• “Forgive but never forget”
• Goal is to make every mistake only once
WHAT IF MY MISTAKE DOES NOT AFFECT THE PATIENT’S CARE?

• You may not be able to determine this
• BE CAREFUL OF EXAGGERATED OR OVER HEARD COMMENTS
• If unreported/undocumented, it may come up later in an unanticipated context
• You are a role model for medical students
• You have to live with yourself
REPORTING A MEDICAL MISTAKE: LEGAL CONSIDERATIONS

- Discuss with your chief resident
- The hospital lawyer is your friend
- House staff is rarely, if ever, held liable
- You should not talk to plaintiff’s lawyer or state licensing board without advice from hospital lawyer
REVIEWS OF PRINCIPLES FOR ETHICAL CHOICES

• Right versus wrong is not always clear
• There are career implications for you and colleagues when you take action
• Be prepared to challenge your common sense beliefs
REVIEW OF GOALS AND OBJECTIVES

- What is a medical mistake?
- Ethical choices when confronted with a medical mistake
- Reporting a medical mistake to colleagues
- Reporting a medical mistake to the patient/family
- My emotional response to a mistake I commit
WHEN UNSURE WHAT TO DO

• First and foremost treat the patient
• Get advice from Chief Resident and/or Service Attending
• ALWAYS TELL THE TRUTH
YOUR TOUGHEST CHALLENGE?

Acknowledging to yourself that you made a mistake

You must find this courage within yourself