

# Importance of Effective Communication

**By Jamie Wyatt, JD**

*“A time comes when silence is betrayal.” - Martin Luther King, Jr., *The Time to Break Silence*, 1967*

We are bombarded with reminders of the importance of effective communication skills in our daily lives, whether the setting is professional or personal. The importance of effective communication in the practice of medicine should never be overlooked. Effective communication needs to occur not only in the patient-physician relationship where it can have a direct effect on patient treatment as well as patient satisfaction, but also among providers where the communication of information can have life or death consequences for their patients. Lack of such effective communication also fosters opportunities for negative outcomes leading to liability exposure. Although this failure can occur either intentionally or unintentionally, both will likely result in adverse consequences. The failure to communicate information is an all-too-common factor in the difficulty of defending medical malpractice cases. Test results need to be conveyed, risks need to be addressed, confusion and/or uncertainty in orders need to be clarified, and questions need to be answered. In a surgical setting, effective communication is a must! The case below illustrates the need to speak up and communicate.

## The Case

A 40-year-old male was diagnosed with an isolated atrial septal defect and underwent heart surgery utilizing bypass. Following the surgery, the patient began showing signs of right sided hemiparesis and mental changes. Tests performed after the surgery revealed strokes involving the bilateral hemispheres. Injuries included mild cognitive and physical injuries attributed to hypoxia during the surgery. The patient sued the anesthesiologist, CRNA, perfusionist, and the facility. The surgeon, who had an established relationship with the patient, was not a named party in the lawsuit. Allegations included, but were not limited to, the perfusionist's failure to keep the blood pressure within the appropriate parameters during the time the patient was on by-pass, resulting in the patient suffering bilateral strokes and neurologic injuries.

Aside from the actual treatment issues, which produced their own challenges in the defense of the case, the defensibility of the case was complicated by a number of peripheral issues. One of the most profound issues affecting defensibility involved the

dynamic created by the surgeon, who was not a party to the suit. Ironically, the surgeon imposed a practice in her operating room that inhibited effective communication. In discovery, it became clear that the surgeon had a “no talking” policy in the operating room. She prohibited anyone in the operating room from speaking except for herself. Also, due to the tense environment she created and her anger issues, the operating room staff was afraid of her. The surgeon denied a “no talk” policy during her deposition, but indicated she did not like frivolous talking. The defendants, who all testified that the surgeon would not tolerate speaking in the operating room, contradicted this testimony. Testimony from the perfusionist indicated that although she was concerned about the near-infrared spectroscopy (NIRS) monitoring values in the operating room, she did not say anything because of the surgeon’s disposition. She testified that communication with the surgeon was difficult and that she was much more comfortable with other surgeons. This deposition alone made the defense of the case challenging. Compound this testimony with the numerous co-defendant providers who all testified that the surgeon screamed at them in prior cases, intimidated them, and established a hostile environment not conducive to communication, and you have a case that adds a mad factor for any jury with the possibility of a very high jury verdict against all of the defendants.

Should the perfusionist have said something? I think we can all agree, yes! Should anyone else in the operating room have communicated any concern that they had during the procedure? Of course! And while the simple act of conveying a concern or seeking clarity of a condition could have changed the outcome of this procedure, the failure to do so resulted in significant liability among the defendants and a life changing injury to the patient. This case was settled by multiple defendants prior to trial. Clearly, the surgeon did not value the importance of effective communication nor appreciate the need to interact with the other participants in the surgery setting. The surgeon’s “no talk” policy, fear inducing conduct, and the facility administration’s failure to notice or correct the negative behavior created a hostile environment that resulted in an adverse outcome and defensibility hurdles that were impossible to overcome.

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