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The power of apology

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Abstract

In the aftermath of an adverse event, an apology can bring comfort to the patient, forgiveness to the health practitioner, and help restore trust to their relationship. According to the Health and Disability Commissioner: *"The way a practitioner handles the situation at the outset can influence a patient's decision about what further action to take, and an appropriate apology may prevent the problem escalating into a complaint to HDC"*. Yet, for many health practitioners saying "I'm sorry" remains a difficult and uncomfortable thing to do. We can help to bring down this wall of silence by developing a clear understanding of the importance of apologies to patients and health practitioners; appreciating the difference between expressing empathy and accepting legal responsibility for an adverse outcome; knowing the key elements of a full apology and when they should be used; and supporting those who have the honesty and courage to say "I'm sorry" to patients who have been harmed while receiving healthcare.

Justin Micalizzi was a healthy 11-year-old in the United States; he loved to play basketball and go bowling with his friends. One day, Justin came home from school with a fever and ankle pain. Over the next 2 days he saw three different doctors, and was eventually taken to hospital for surgery to incise and drain the swollen ankle.

Justin was dead by 8am the next day, leaving behind two grieving and bewildered parents who desperately wanted to know why their son had died. But medical care was to fail the Micalizzis twice—first their son died, and then no-one would explain to them why, or apologise for the loss of their son.[2] The silence from the doctors and nurses in the days, months, and years that followed Justin's death was deafening.

Nearly 8 years later, Justin's mother—Dale Ann Micallizi—writes:

> …I am still waiting for, and still need that conversation. Not receiving an apology and explanation from someone caring for your child when something goes wrong is incomparable to any form of inhumanity in medicine or in society. It is simply not right. Justin was our child and we were owed an explanation and an apology. We didn't expect anyone to say "I'm sorry that I screwed up", but perhaps simply "I am so very, very sorry that your son has died in our care. I will do everything in my power to help you and your family heal and explain to you everything that I honestly know about the event."
>
> Justin's surgeon would have been my hero if he said that to us but instead they said "these things happen in medicine" and we were expected to accept that. As a parent, I couldn't.

Wall of silence beginning to crumble

Historically, health practitioners—and in particular doctors—have been noted for their reluctance to offer apologies. Health practitioners have high expectations of themselves and, not surprisingly, many find it difficult to discuss adverse events

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openly with patients. Some are afraid of losing patients' trust, some shy away from difficult conversations, while for others the fear of medicolegal consequences and professional sanctions is cited as an impediment to apologising. Whatever the reason, for many health practitioners *"sorry seems to be the hardest word"*.

But the "wall of silence" is beginning to crumble, as health practitioners are increasingly called on to openly disclose adverse events, apologise for the harm caused, and acknowledge responsibility if a preventable error has occurred. (For the purposes of this paper, "adverse event" refers to harm caused by medical management rather than the patient's underlying disease. Many adverse events are unpreventable, but can nevertheless cause patients significant suffering and distress. The term "preventable error" refers to events involving a departure from the accepted standard of care.)

Internationally, a number of institutions have instituted training programmes to help medical students and doctors who are *"illiterate in the language of apology"*.[3] In New Zealand, medical schools recognise the critical importance of communication skills, and seek to equip their students with the reflective attitudes required to respond to adverse events in an open and patient-centred manner.

According to Dr Lynley Anderson, a Senior Lecturer at the University of Otago's Dunedin Medical School:[4]

> Students are encouraged throughout the curriculum to be responsive to patient needs and reflective about their own actions, and that includes in situations where adverse events or error occurs. When done appropriately, apologising for medical error is seen as part of the care of the patient and their family as well as being attentive to the ongoing doctor-patient relationship

Why are apologies important to patients and their families?

Those who deal with adverse events on a regular basis have long believed that *"patients primarily want two things when things go wrong: first, an apology; second, reassurance (to the extent possible) that steps have been taken to reduce the likelihood of a repeat of the event."*[5]

Research supports this view that injured patients who take legal action following an adverse event are primarily seeking communication and corrective action, rather than financial compensation or sanctions against the health practitioner.[6] For example, a review of letters to the Health and Disability Commissioner found that 40% of complaints were motivated by a desire for more satisfying communication, such as an explanation or apology. (A further 50% of complainants sought some reassurance that corrective action would be taken to protect future patients from similar harm.)

Following an adverse event, many patients and families feel abandoned or betrayed by the very people they entrusted with providing them care.[8] The person whom they literally trusted with their life has let them down. By apologising, the health practitioner acknowledges these feelings and provides reassurance to the patient and the family that they will not be shut out at this most vulnerable time.

Paradoxically, some patients and families have more trust in the healthcare system after an adverse event, than before, if an adverse event is handled openly and honestly.

For others, an apology provides important confirmation that the health system, and not the patient or family, caused the injury. Many patients and families (particularly the parents of children who have died or suffered permanent disability) wonder whether they were in some way to blame for the harm that occurred.[9] Truthfully acknowledging the extent to which the injury was caused by healthcare can lift that burden of uncertainty and guilt from their shoulders, and provide an understanding of how and why things went wrong.

In cases involving a preventable error, an apology sends an important signal that the health practitioner regrets the error and wishes to avoid it happening again. The frightening reality is that around 1 in 10 hospital admissions is associated with an adverse event, of which around one third are preventable.[10] An apology helps to reassure patients that lessons have been learnt and unsafe practices will change.

And finally, an apology helps to facilitate the process of forgiveness and healing. A heartfelt *"I'm sorry, we made a mistake"* helps patients and families to stop endlessly speculating about what happened, and begin to grieve the loss they have suffered.[11]

Why are apologies important to the health provider

Patients are not the only ones who can benefit from an apology after an adverse event. Wayne Cunningham's research demonstrates the deep impact of adverse events and complaints on health practitioners. Typical feelings include anger, shame, guilt, and a loss of confidence in their abilities.[12]

According to Aine McCoy from the Medical Protection Society:

> Doctors tend to cope in varying ways with the realisation that an error has occurred. Typically negative strategies are denial, discounting, distancing oneself from the issue and one's colleagues and family, and covering it all up. Needless to say these do nothing to promote a resolution[13]

For the health practitioner, the benefits of apologising fall into two categories: internal and external. The internal benefits include alleviating guilt, and maintaining self-esteem. The sense of perceived failure associated with an adverse event can impact heavily on a health practitioner's sense of self, potentially resulting in feelings of shame and loss of joy in medical practice.[14] A heartfelt apology, particularly when followed by forgiveness from the patient, may help to lift that burden of self-reproach.

The external benefits of apologising relate to the way that a health practitioner is perceived by his or her patients, colleagues, and community. Health practitioners who apologise are demonstrating their commitment to enduring principles of medical ethics: telling the truth, and acting with charity and kindness. It takes great strength of character to face someone we have hurt, acknowledge responsibility, and to show compassion for his or her suffering.[1] In addition, the process of apology invariably calls for candid self-reflection and, as a result, may lead to better and safer care.[16]

And finally, saying sorry when someone has been hurt is simply the right and caring thing to do. One lawyer who initially advised her clients to break off communication after bad outcomes explains:

> At some point, it just struck me that a non-communicative, dehumanizing, adversarial process was at complete odds with the mission of healing, delivering compassionate care and treating patients with dignity and respect[17]

Or more simply, in the words of Justin's mother, Dale Micalizzi, *"It's about being human and treating each other with respect and kindness, nothing else"*.

Dr Robin Youngson recalls an episode during his anaesthetic training when he performed an arm block in the wrong arm of a patient with a hand fracture:

> With horror I realised my mistake, just as we were transferring Mr M into the operating theatre. The block couldn't be repeated on the other arm because I had already used the maximum safe dose of local anaesthetic, so I did my best to make sure he would be comfortable and spent the whole case feeling guilty and worried.
>
> Mr M woke up in the recovery room to find that he had one arm in a plaster cast and the other arm was heavy and numb. I said, "I'm so, so sorry. I made a mistake. I did the arm block in the wrong arm." I provided him with additional pain relief, and reassured him that the function in his good arm would be restored later in the day.
>
> Back in theatre I found it difficult to concentrate: I was feeling like an idiot and was fearful of another mistake. Soon after, the recovery nurse approached me: "Mr M asked me to give you a message." I felt sick; sure that I was about to be notified of a complaint or other legal action. The nurse relayed Mr M's message: "Can you tell that doctor to stop worrying about his mistake". An enormous burden lifted from my shoulders. I couldn't believe that he could forgive me so easily. In later years, I came to understand that patients would forgive almost any mistake so long as I was honest about what had happened, showed that I cared, and did my very best to make amends[18]

How do apologies affect medicolegal risk?

In the New Zealand context, the availability of no-fault compensation for all treatment injuries means that health practitioners are almost entirely protected from the threat of medical malpractice litigation. Nevertheless, the risk of a complaint to the Health and Disability Commissioner, or other form of medicolegal inquiry, concerns many health practitioners, and is sometimes cited as an impediment to disclosing adverse events and saying sorry for the harm that has occurred.

In fact, health practitioners in New Zealand have a legal duty to communicate openly and honestly with patients in the aftermath of an adverse event.[19] In addition, patients have a legal right to receive the information that a reasonable patient, in that patient's circumstances would expect to receive, and to receive honest answers to questions.[20] Alongside this duty of candour, stands an expectation from the Commissioner that health practitioners will apologise when patients are harmed as a result of a breach of the Code.[21]

Importantly, saying *"I'm sorry"* does not automatically imply fault or error—it's all about context. As discussed below, in the aftermath of an adverse event where no preventable error has been identified, a "partial apology" or expression of regret and empathy does not require any admission of fault or responsibility.

In situations where a preventable error has occurred, injured patients may in fact be less likely to take legal action if health practitioners communicate openly and apologise appropriately, than if the patient perceives a "cover up". For example, the mother of a baby who required surgery after delayed diagnosis of an imperforate anus wrote to the Health and Disability Commissioner: *"Had the doctor apologised as soon as he found out about the problem, or had he enquired after baby's health, I would not be making this complaint now."*

Internationally, a number of studies support the view that a policy of open disclosure coupled with a sincere apology may actually reduce the likelihood of time-consuming and expensive legal disputes.[23–26] Closer to home, the Health and Disability Commissioner has commented that: *"The way a practitioner handles the situation at the outset can influence a patient's decision about what further action to take, and an appropriate apology may prevent the problem escalating into a complaint to HDC"*.

In this context, responding to adverse events with an approach of "candour and compassion" seems both medicolegally and ethically preferable to alienating patients and their families with an inflexible policy of "deny and defend".

The language of apology

Most health practitioners will, at some point in a successful career, have to confront at least one unanticipated, serious, or even catastrophic outcome. In the words of Lucian Leape, *"error is an inevitable accompaniment of the human condition, even among conscientious professionals with high standards"*.[28]

Yet, as alluded to earlier, apologising can be a formidable challenge for many health practitioners. One anaesthetist who approached a patient's family following an intra-operative cardiac arrest explains: *"I felt personally responsible for what had happened and compelled to communicate with the family. I thought I would be able to provide a factual account of the event to the husband but to my shock, the husband came at me with full emotional and physical force … I was now forced to confront my own emotional distress and I realised my complete lack of training in how to manage this situation."*[29]

It is therefore important for health practitioners to be adequately trained in open disclosure and apology, to be provided with adequate support in the aftermath of an adverse event,[30] and to be allowed enough time to prepare—both factually and emotionally—for these difficult conversations.

The requirements for an effective apology will vary from case to case, depending on the injured person's hopes, needs, and fears, and the relationship between the two parties. However, broadly speaking, an authentic apology is likely to include the following five elements: (1) recognition of the event that caused harm, (2) an expression of regret and sympathy (the partial apology), (3) an acknowledgement of responsibility—where appropriate—once the facts are fully understood (the full apology), (4) effective reparation, and (5) one or more opportunities to meet again after a period of reflection.[31]

The non-apology

Each of these steps will be considered in turn. But first, a few words about so-called "non-apologies". It almost goes without saying that not every sentence that starts with *"I'm sorry …"* is an apology[32] (although some non-apologies are more difficult to identify than those of the obvious *"I'm sorry you're so stupid"* sort).

Non-apologies are typically used when people want to take the heat off a situation and keep the offended person quiet, without actually demonstrating humility, remorse, or a commitment not to repeat the offence.[33] In effect, the offender is trying to reap the benefits of apologising without having earned them. Other non-apologies are self-

focused, with the wrongdoer only feeling sorry for themselves and the predicament they are in.[34]

Consider for example, the case of a woman who underwent a pelvic ultrasound at a public hospital. She was upset that a male registrar in training observed the procedure, without her consent, and she felt that the consultant radiologist spoke to her in a brusque way that made her *"feel demeaned"*. The radiologist said *"I am sorry that she has misinterpreted my voice and manner"*[35] and went on to say that Ms A was the only patient to criticise the radiologist's bedside manner in 20 years of doing similar examinations.

In another case, a baby was misdiagnosed with an ear infection, when in fact she was suffering from whooping cough. The GP called the baby's mother to *"express his disappointment at the way things had turned out"*.

The mother found the phone call intimidating:

> He was very quick to let me know his qualifications. He also pointed out that I did wait 2 days, after seeing him, before taking my baby to hospital. I resent his implications very much . I find it unacceptable to try and make me feel guilty … I was not prepared to return to that surgery for a 4th time, just to be sent away again![36]

A common feature of non-apologies—present in both of these cases—is that the so-called "apology" is in fact a deflection of responsibility, which implies that the victim is the one who is in the wrong. In other cases, the non-apology may offer explanations that are dishonest, arrogant, manipulative, or an insult to the intelligence of the patient or the family. In all of these situations, the non-apology may actually escalate the situation.

Recognition

The first step towards an effective apology involves recognising the injured person's feelings, and clarifying the event that caused offence or harm. Recognising and acknowledging harm is not always an easy task. Often, the need for an apology arises when two people do not share the same perspective, and it is important to seek a common understanding of what was perceived as wrongful before trying to move on.

Recognising the need for an apology requires practitioners to reflect on their own practice, and to be sensitive to the emotional as well as physical needs of their patients. The support of a supervisor, trusted colleague, or peer group may help to facilitate this process of recognition and assist the practitioner to prepare for the conversation to follow.

Regret

Next comes an expression of regret: *"I'm sorry for your suffering"*. Patients are likely to feel hurt and vulnerable after an adverse event, and this initial expression of empathy and compassion is a caring and humane response to the harm that has occurred, regardless of the cause.[37] It can take place without knowing exactly what went wrong or why, in the same way that we would express sympathy and concern for any injured human being. In the words of David Costa: *"People need to stop being so worried about communication of compassion for those we serve."*[38]

The conversation might go something like this:

> I am so very sorry this happened. This is not the outcome that either of us had hoped for. The doctors and nurses caring for your son will work with you to ensure he receives the best possible care. We are carrying out an investigation to find out what happened, and we will share that information with you as soon as we can. Is there anything else we can do for you or your family at this point? I will be back in touch with you in the next day or so. In the meantime, if you have any questions, you can call me on this number at anytime of day

Notice that the health practitioner has said sorry, without admitting fault, assigning blame, making guesses, or jumping to conclusions. This initial conversation is all about expressing heartfelt sympathy, conveying compassion, and rebuilding trust. It brings the injured patient and family closer, rather than pushing them away, and promises to maintain open lines of communication.

This offer of empathy and compassion is what Justin's mother Dale was seeking when she explained that she just wanted to hear the doctor say: *"I am so very, very sorry that your son has died in our care."* A partial apology of this sort does not accept blame or responsibility, but the expression of genuine caring and concern does allow healing to begin.

Responsibility

The third element is the one that distinguishes a full from a partial apology: recognition of responsibility and accountability *("I'm sorry that I hurt you. I accept responsibility for my mistake.")*. A thoughtful and well-timed full apology can facilitate forgiveness and strengthen the relationship with the patient. However, ill-prepared or misplaced admissions of fault can have harmful consequences for both health practitioners and their patients. When deciding how best to address issues of responsibility and accountability, practitioners are therefore well advised to seek early support and assistance from their legal advisor, senior colleagues, and insurer.

If a simple and obvious preventable error has occurred, it may be appropriate to immediately acknowledge that a mistake was made, apologise, and commit to ensuring that it does not happen again. However, in many situations, a quick admission of guilt, even when expressed with genuine feeling, will be the wrong choice.

Once a full apology has been made, it cannot be taken back, and trying to retract information that was wrongly given in the heat of the moment only gives rise to suspicions and mistrust. It is therefore important that health practitioners take time to reflect on what has happened and, where appropriate, seek advice from others before offering a full apology.

Taking time to reflect on what has happened before offering a full apology has advantages for both the patient and the health practitioner. Such reflection can help to ensure that health practitioners do not unfairly blame themselves, in situations where no preventable error has occurred, or jump to wrong conclusions about the cause of the adverse event. It also helps to ensure that patients and their families receive a factual, constructive, cohesive response[39] from all those involved rather than being subjected to the shifting sands of assumption and speculation. The inquires that are required before a decision is made regarding the need for a full apology may be completed within hours, or may require several weeks if the circumstances leading up

to the adverse event are complex. During this time, every effort should be made to ensure that the patient feels safe and that channels of communication remain open.

Healthcare is fraught with uncertainty and complexity, and there are many occasions when a patient suffers a poor outcome, despite the best efforts of everyone involved. If an investigation shows that the patient received appropriate care, the patient or family should be provided with full information and offered an opportunity to ask any further questions. This may also be a good time for the health practitioner to reiterate feelings of empathy and concern for the harm that the patient has suffered.

If the investigation shows that a preventable error has occurred, it may well be appropriate to provide a full apology—acknowledging that aspects of care fell below the expected standard and accepting responsibility for those failings. In this situation, an apology that fails to accept accountability for any identified shortcomings in care may be viewed as hollow and meaningless.

In some cases, particularly those involving systems errors, it will be appropriate for both the health practitioner caring for the patient and the person ultimately responsible for that episode of healthcare (whether that be the practice manager, or even the chief executive) to offer an apology.

Reparation

Fourthly, an authentic apology involves taking some steps towards putting things right. Ideally, the remedy should both address the problem the patient is experiencing, and outline efforts to protect others from the same untoward result. In the New Zealand context, assisting the injured patient to obtain compensation and access rehabilitation services through an ACC treatment injury claim, may be an important part of the remedy.[40]

Effective reparation also includes a commitment to understanding what went wrong—at both an individual and systems level—and mounting an effective response in order to ameliorate the risk of future harm. The patient needs to know why it happened, to the extent that that can be answered, and he or she needs to know what is going to be done to reduce the potential of such an event happening again.

Reflection

Finally, it is important to remember that offering and accepting an apology may require time and patience. Immediately following an adverse event, the patient may indeed be upset and not yet ready to forgive.

Injured patients and their families should not feel pressured by subtle—and not so subtle—reminders that ‘good’ people are ‘forgiving’, or assurances that, after all, nobody meant to harm them—at a time when they remain profoundly distressed by not knowing what really happened, or by inadequate acknowledgment of their suffering. We need to be prepared to allow the other person to express their disappointment and frustration, and to validate their feelings, rather than expecting instant forgiveness.

Just as a wound does not heal the moment that treatment is started, so too can it take time for both parties to experience healing after an apology is extended. We need to be patient. The injured patient may need days, weeks, or longer to understand and

psychologically assimilate what has happened. The health practitioner and patient may need to meet on several occasions to talk things through, and understand the implications for the healthcare relationship. Remember this wisdom from Shakespeare: *"How poor are they that have not patience! What wound did ever heal but by degrees."*[42]

Conclusions

For many health practitioners, talking about apologies still feels uncomfortable. It can be helpful to remember that, years ago, health practitioners in New Zealand were similarly uncomfortable talking about informed consent. Now it has become a standard part of the healthcare relationship.

As the "wall of silence" continues to crumble, we can expect to hear more discussion about the importance of saying "sorry" in the health sector. We can all support the work that needs to be done to improve health practitioners' literacy in the language of apology, and to address the fears and misperceptions that prevent health practitioners from expressing sympathy and, where appropriate, apologising in the aftermath of an adverse event. We can hope for an increasing recognition that saying *"I'm sorry"* can be a sign of strength, rather than weakness. It is an act which requires honesty, generosity, humility, commitment, and courage.[43]

While an insincere pseudo-apology can do more harm than good, heartfelt expressions of sympathy and sincere apologies can have profound healing effects for all parties. They can bring comfort to the patient, forgiveness to the health practitioner, and restore trust to the relationship.[44]

This paper finishes where it began, with the story of Justin Micalizzi. Years have now passed since Justin's death, and still his mother Dale has not received an apology, or even an expression of sympathy, from some of the health practitioners with whom she entrusted her son's life. Over that time Justin's mother has become a powerful advocate for safe, compassionate, patient-centred care.

It seems appropriate to conclude this paper with the quote that appears on the back of the bookmarks that Justin's mother, Dale, distributes in her son's memory:

> Integrity: "The highest courage is to dare to be yourself in the face of adversity. Choosing right over wrong, ethics over convenience, and truth over popularity...these are the choices that measure your life. Travel the path of integrity without looking back, for there is never a wrong time to do the right thing."

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