

## Informed Consent, Part Two: How to Enhance the Physician-Patient Dialogue

BY CHRIS MCDONAGH, SENIOR EDITOR

**B**uilding a rapport with a patient can help avert litigation. “But the informed consent process is more than a legal tool, it is a patient safety tool,” said Fay A. Rozovsky, JD, MPH, a past-president of the American Society for Healthcare Risk Management. “This is why I have worked on the topic of informed consent for more than 30 years. It is more than a piece of paper. At its core, this communication process is the most powerful, inexpensive patient safety tool that you have in your armamentarium.” Last issue, *EyeNet* asked Ms. Rozovsky about the role of staff and patient education materials in the informed consent process. This month, she discusses some key issues in the physician-patient dialogue.

**Be sure that the patient is listening.** “When you tell a patient that he is going to be losing his vision, you are basically taking away from beneath his feet the floor on which he stands. He is going to stop hearing you after you say, ‘Mr. Smith, I am sorry, . . .’” said Ms. Rozovsky, who is principal of The

Rozovsky Group, a health care risk management consultancy firm.

**Use a “ladder” of informed consent.** “When a patient has received a shattering diagnosis, you need to conduct the informed consent process in stages,” said Ms. Rozovsky. “Think of the process as a ladder, with each conversation being a rung on that ladder. You and the patient can’t proceed to the next rung unless you have stepped firmly on the preceding rung. So you might say, ‘Mr. Smith, I am so sorry that when we last met I had to tell you about the drusen situation and how it’s getting out of hand. Tell me what you remember about what we talked about.’” Then you can document what he recalled and move on to the next part of the discussion. “If you break the consent process into stages, nobody can say that they were overwhelmed and couldn’t remember what they were told.”

**Manage expectations.** “Just like your radio has a volume switch, there is a volume switch on the boom box of expectations,” said Ms. Rozovsky. “For instance, the parents of a premature child might have very, very low expectations. In that case, you might need to turn the ‘volume’ up and raise the parents’ expectations. A LASIK candidate, on the other hand, might have unrealistically high expectations, so you would want to turn the volume down.”

### Dialogue Dysfunction



There are some recurring problems that can impede the consent process, said Ms. Rozovsky, including:

- Talking over a patient’s head by, for instance, talking about statistics to someone who has not completed a GED.
- Failing to take into account that English is a patient’s second language.
- Doing an information dump, and not providing the patient with an opportunity to digest the information and ask questions.
- Glossing over risks and not sharing information about alternatives and the probable benefits and risks.



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**Know what's important to the patient.** "You need to get on the same page as the patient," said Ms. Rozovsky. "For the patient whose eldest grandchild is being married in 72 hours, the risk of waiting until Monday to perform the procedure might be outweighed by the benefit of going to the wedding on Sunday."

#### Relatives Can Help

Ms. Rozovsky believes it can often be helpful if the patient is accompanied by a family member—though, for confidentiality purposes, you should get the patient's permission and document their relationship.

**A family member can be your advocate.** "Suppose you have a long-standing diabetic patient," said Ms. Rozovsky. "She has never had to use insulin but has now become insulin-dependent. She has a variety of health problems, and she is feisty. She looks you in the eye and tells you, 'Of course I'm taking my glaucoma drops. Every day.' Then you look over to the family member and see him shaking his head no. You can tell the patient, 'Time out. He seems to disagree with you.'"

**A family member can tell you whether a treatment plan is feasible.** "If the relative is the patient's primary familial caregiver, he might tell you, 'That's not going to work, doctor. I won't be with her every single day to make sure she's taking her drops.' As the ophthalmologist, you would want to know that up front," said Ms. Rozovsky.

**A family member can provide history.** "There is some very good evidence from the Malignant Hyperthermia Association of the United States," said Ms. Rozovsky. "For more than 30 years, they have been asking patients to bring a relative with them to the preoperative visit—ideally from an older generation. And they ask both the patient and the relative if any member of their family has ever had a problem with anesthesia. If the answer is 'Yes' or 'I think so,' that automatically puts the patient into a high-risk category. This one simple question has helped them avoid what used to be

seven figure judgment awards for anesthesia malpractice."

**Don't let family members hijack the consent process.** "Cultural barriers are a very big issue in health care these days," said Ms. Rozovsky. "Suppose a husband and wife come in. She is the one who needs the procedure, but she isn't answering any of the questions. The husband speaks for her. In their culture, that might be very acceptable, but it is preventing a meaningful consent process—so it needs to be addressed."

#### The Challenge of Statistics

What's the best way to explain the statistics of risk to a patient? "I have seen statistics handled in a number of ways," said Ms. Rozovsky, "but there is a great need for research in this area."

**Use a traffic light analogy.** "The red light represents that the patient is at high risk. The yellow flashing light means caution, the patient is in the middle range, and the green light means the patient is in the low range for risk," she said.

**Present the statistics visually.** If there is a one in 1,000 risk of a certain complication, you can show the patient a chart with 1,000 stick figures, one of which is colored in. The Risk Communication Institute provides an application that allows you to build such charts ([www.risccomm.com](http://www.risccomm.com)). Ms. Rozovsky also pointed out that the authors of a recent book—*The Illusion of Certainty: Health Benefits and Risks*—describe how a visual approach can be used to explain, for instance, the absolute risk of disease and the benefits of screening or treatment.<sup>1</sup> In several case studies, they use a seating chart for a 1,000-seat "Risk Characterization Theater" ([www.theillusionofcertainty.com](http://www.theillusionofcertainty.com)).

1 Rifkin, E. and E. Bouwer. (New York: Springer, 2007).

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