

ASK THE EXPERT

Is Your Patients' Understanding Putting You at Risk?



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Promoting health literacy — a patient's ability to understand and use health information to make informed decisions about their care — is overlooked more than you might think

"I think health literacy is an industry buzzword," said Dana Taylor, MHA, CPHRM, CPPS, senior risk specialist with Coverys, a leading provider of medical professional liability insurance, risk mitigation resources, and data intelligence that helps reduce the risk of claims and improve patient safety. "And while it may be gaining momentum, it has not been widely adopted across the industry."

There is reason to believe that some medical malpractice lawsuits could have involved issues related to informed consent/informed refusal in which patients were unaware of a procedure's risks, benefits, or alternatives — not because they were not informed by the provider, but simply because they didn't understand the complicated industry language that was used.

Coverys senior risk specialist Robin Webster, MHA, BSN, RN, CPHRM, added that patients may sign consent forms even if they don't fully understand what they say. "They think that's what they're supposed to do."

Health literacy is more than a buzzword for Taylor and Webster; it's a critical component of providing effective healthcare delivery and avoiding potential legal challenges.

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How important is health literacy?

Webster: After working in healthcare for 30 years, I realized that sometimes, the language used in an informed consent discussion could be problematic. In one situation, a physician wanted to discharge a 41-week pregnant patient from his practice. She was scheduled for a cesarean section (she had one previously) and didn't want to have another one. She missed her procedure, and when it was rescheduled, she missed it again. I asked the doctor if the patient knew that she and/or her baby could die if she went into labor outside of the hospital. He said he told her there was a risk of fetal demise. I suggested that he instead explain what fetal demise meant in plain language. After he reached out to the patient and explained the risks in simpler terms, she came in that day. He followed up to let me know that she had a successful birth.

Taylor: Colonoscopy is another example. Providers should explain the procedure in plain language, but also explain what could happen if they don't get one: "I might have cancer in my body that I wouldn't know about if I didn't get this test." Informed consent is more than just presenting a document to a patient and asking them to sign it — it involves a detailed discussion of the procedure, risks, benefits, and alternatives in plain language so that the patient fully understands.

Do health literacy issues lead to malpractice cases?

Webster: They certainly could. I had a hunch that health literacy impacted malpractice claims. A review of Coverys closed claims found that issues related to provider-to-patient communication, as well as patient engagement, may be influenced by a lack of health literacy. For example, a lack of health literacy could lead to delays in cancer diagnoses when patients fail to get preventive services like colonoscopies.

Taylor: We suggest to our policyholders that the best way to protect themselves is to make sure their

patients understand what they're agreeing to. If folks can understand the information in the Informed Consent document, that helps the conversation flow. This brings me back to my grandparents' generation, which placed complete trust in their doctors, rarely questioning their recommendations. But if we're not discussing risks and potential outcomes in plain language, patients could make uninformed decisions, potentially leading to legal consequences down the road. That's why teach-back is so critical.

Can you explain more about the importance of teach-back?

Taylor: Teach-back is asking the patient to tell you, in their own words, what you just explained. When they do, providers can more easily identify any gaps in understanding.

Webster: To assist our policyholders with the concept of teach-back, we developed sample forms as an aid to help their patients understand what they are granting permission for the clinician to do. The Agency for Healthcare Research and Quality also has some good tools for [explaining risk with visual aids](#).

Coverys has a program called REACT® (Respond Effectively And Communicate Timely). How does it work?

Webster: Coverys offers eligible policyholders expert guidance on communication best practices after an adverse event. Sometimes, even after every step was taken perfectly by a provider, a known risk occurs — or a bad outcome happens, such as a loss of teeth from an intubation during anesthesia or perforations from colonoscopies. If a provider has prepared the patient during the informed consent discussion, it is an easier conversation to have, since they already understand the risks. In addition to providing consultation on communication through the REACT Program, patients experiencing an adverse event may be eligible for reimbursement for out-of-pocket expenses related to the bad outcome.

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