

Claim Review

Unprofessional Behavior Contributes to Poor Postoperative Outcomes

A general surgeon performs a robotic-assisted colon resection on a 54-year-old man. Delays in diagnosis and treatment of an anastomotic leak lead to sepsis and permanent kidney damage.

SPECIALTY	ALLEGATION	PATIENT SAFETY & RISK MANAGEMENT FOCUS
<ul style="list-style-type: none"> General surgery 	<ul style="list-style-type: none"> Improper performance of surgery Improper management of surgical patient Delay in diagnosis and treatment of surgical complications 	<ul style="list-style-type: none"> Communication Unprofessional clinician behavior

Issues with surgical skill and performance account for

59%

of allegations made against general surgeons

Facts of the claim

A 54-year-old man with a history of recurrent diverticulitis was referred to a general surgeon. The surgeon recommended and performed a robotic-assisted low anterior colon resection that was described in the surgeon’s operative note as “without complication.” On day one after surgery, the patient reported a greater degree of pain than expected. His nurse called the general surgeon twice to discuss pain management. On the second call, the surgeon yelled at the nurse for calling a second time.

On the third day after surgery, the patient developed hypotension, confusion, agitation and decreased urinary output. His nurse called a rapid response team to evaluate the man and he was transferred to ICU. The ICU intensivist ordered antibiotics and dialysis. The man’s condition improved and he was transferred back to the surgical unit. The general surgeon approached the nursing care team and was

angry they had called a rapid response team to evaluate the patient and accused them of mismanaging the patient’s IV fluids.

On the sixth day after surgery, the man developed a fever and increased white blood cell count. He was transferred back to ICU and abdominal imaging showed an anastomotic leak. The general surgeon took the man back to surgery the next morning for a laparotomy, lavage drain placement and loop ileostomy. The nursing team reported persistent confusion and agitation in the patient. One week later, the man continued to have significant wound drainage. The patient’s wife complained loudly to the general surgeon and the general surgeon responded by transferring care to the assistant surgeon. He told the patient’s wife he no longer wanted to care for her husband due to her complaints.

One month later the patient requested a transfer to a tertiary center where he

underwent an upper GI and feeding tube placement. Two weeks later he was transferred to a skilled nursing facility for rehab. Over the next seven months the man underwent multiple surgeries and procedures. He had permanent kidney damage and was disabled, unable to work. He filed a malpractice claim against the general surgeon and the hospital alleging improper performance of surgery, improper management post-operatively, and delay in diagnosis and treatment of surgical complications.

Disposition of the claim

The malpractice claim was settled against the general surgeon.

Risk and patient safety perspective

The experts who reviewed the care felt an imaging study should have been ordered sooner, the complication identified sooner and the patient taken back to surgery for re-exploration to drain and repair the anastomotic leak. The experts stated that as a result of the delay in diagnosis of the anastomotic leak, the patient rapidly progressed from sepsis to severe sepsis, which then required multiple additional surgeries. This resulted in permanent kidney damage, cognitive impairment and disability.

This case was difficult to defend due to the strained relationship that developed postoperatively between the general surgeon, the patient and the patient's wife. They felt the general surgeon was not listening and dismissed their concerns. The general surgeon ultimately resigned from the patient's care in an angry outburst in the patient's room.

The general surgeon and the surgical nursing care team also had a strained relationship. The surgical nurses caring for this man kept private journals of their patient care concerns and contentious interactions with this general surgeon. The defense team felt these private notes would be discoverable and damaging to the defense of the claim.

Also compounding the difficulty in defending the case was the hospital's review of the general surgeon's

privileges due to his unprofessional behavior and patient care concerns.

Top malpractice allegations against general surgeons

In our analysis of Constellation surgical malpractice claims, general surgeons are the second most frequently cited clinician responsible for patient care at the time of alleged injuries, with 21.6% of claims, and number one in costs (28.5%). Issues with surgical skill and performance are the top allegations made against general surgeons (59%), followed by poor surgical patient management claims (30%). Communication breakdowns were identified as contributing factors in 35% of surgical claims.

Risk and patient safety strategies

Disruptive and unprofessional behaviors are common in health care and often indicate a toxic culture that undermines patient safety. A recent study done by the Center for Patient and Professional Advocacy at Vanderbilt University School of Medicine reveals that surgeons with higher numbers of complaints of unprofessional behavior typically have patients who experience more complications following surgery.¹ The study showed that patients whose surgeons had one to three reports of unprofessional behavior had an 18% higher risk of experiencing complications. This could indicate that postoperative complications can be attributed not only to surgical skill and technique, but also to disruptions in teamwork and care processes. In an article reviewing the study's findings, the author identified that these behaviors can be manifested as bullying, intimidation or disregard for internal procedures such as surgical checklists.²

In a 2017 study also done at Vanderbilt University, researchers found that analyzing patient and family reports about rude and disrespectful behavior could predict surgeons with higher rates of surgical site infections and other adverse outcomes.³

Addressing unprofessional behavior

- Assess your patient safety culture with a tool such ARHQ's Surveys on Patient

Safety Culture. These tools can help identify areas of strength to build on and areas of weakness to address.

- Establish and enforce a strong policy regarding professional behavior standards for employees and clinicians with medical privileges. The policy should include definitions of unprofessional behavior, professional code of conduct standards, reporting process, investigative process and consequences for breaching the standards. Professional code of conduct standards should be included as part of the Medical Staff Bylaws.
- Implement a program to educate and encourage a culture of mutual respect and collaboration among clinicians and nursing care team members.

Resources

AHRQ Surveys on Patient Safety Culture <https://www.ahrq.gov/sops/index.html>

TeamSTEPS <https://www.ahrq.gov/teamsteps/index.html>

References

1. Cooper WO, Spain DA, Guillaumondegui O, et al. Association of coworker reports about unprofessional behavior by surgeons with surgical complications in their patients. *JAMA Surgery*. 2019;154(9):828-834.
2. Priestley S. New study supports the need for greater personal accountability to improve safe care for patients. Cognitive Institute. <https://www.cognitiveinstitute.org/new-study-supports-the-need-for-greater-personal-accountability-to-improve-safe-care-for-patients/>. Accessed July 6, 2020.
3. Vanderbilt University Medical Center. Patient complaints can identify surgeons with higher rates of bad surgical outcomes. VUMC Reporter <https://news.vumc.org/2017/02/15/patient-complaints-can-identify-surgeons-with-higher-rates-of-bad-surgical-outcomes-study/>. Accessed July 6, 2020.

LORI ATKINSON,
RN, BSN, CPHRM, CPPS

Content Manager and Patient
Safety Expert

Constellation

Lori.Atkinson@

ConstellationMutual.com



This article originally appeared in the Fall 2020 issue of *Common Factors*,TM published online four times each year by Constellation. Together with member companies MMIC, UMIA and Arkansas Mutual, Constellation is a growing portfolio of medical professional liability (MPL) insurance companies offering innovative products and services that reduce risk and support care teams. For more articles, providing health care leaders and professionals with data-driven insights and solutions, plus malpractice claims analysis and more on the latest health care topics, visit ConstellationMutual.com