When does bad bedside manner cross the line into actual medical malpractice? Some doctors are everything you could ask for in a physician – reassuring, personable, and caring. Whether you’re in for a routine appointment or battling a potentially life-threatening condition, these doctors leave you feeling like you’re in good hands.

Other doctors, not so much. But there’s a wide spectrum when it comes to bad bedside manners. In some instances, a doctor’s attitude simply leaves a lot to be desired. In others, what begins as treating a patient badly turns into bad treatment of the patient’s medical condition.

If you’ve ever had a doctor with a terrible bedside manner, it might come as no surprise that rude doctors are sued more often than caring and compassionate ones. Decades of research have shown that how physicians communicate with patients – and how they make patients feel – has a huge impact on whether or not doctors face
malpractice lawsuits.

The Link Between Bedside Manner and Malpractice Suits

As a whole, medical malpractice is alarmingly rampant. By the time they reach age 65, **75 percent of physicians** have been named in a malpractice claim, according to *The New England Journal of Medicine* – and that’s among **low-risk** specialties. Medical errors are the third leading cause of death, *CNBC News* reported. They claim **hundreds of thousands** of American lives every year.

Physicians in the specialties of neurosurgery, thoracic–cardiovascular surgery, and general surgery see the **highest rates of malpractice lawsuits**. Doctors practicing family medicine, pediatrics, and psychiatry face the fewest lawsuits.

As horrifying as the medical error rate is, it *doesn’t* mean that doctors everywhere are behaving negligently. In many cases, the same careless physicians are accused of malpractice over and over again. “Approximately 1% of all physicians accounted for 32% of paid claims,” according to *The New England Journal of Medicine*.

And researchers know who those doctors are. Overwhelmingly, they’re the ones who don’t communicate well with their patients. They don’t listen, they don’t explain, and they don’t inspire confidence. So it’s no wonder that their dissatisfied patients often look back and wonder what went wrong.

Research into Practitioner Communication and Medical Malpractice

A good bedside manner is far more effective at reducing the risk of medical malpractice litigation than common practices of ordering excessive tests and procedures, sometimes called “defensive medicine,” *The New York Times* reported. The patients seeing doctors who faced the most malpractice lawsuits – not only the ones who actually filed those suits – felt that these doctors ignored them, rushed them or failed to explain things adequately. Frequently sued doctors are the subject of twice as many complaints as doctors without such a troubled history. Most often, complaints referenced the **doctor’s poor communication**.

A study highlighted in another *New York Times* article found that doctors who had never been sued for malpractice were perceived by patients as being accessible, concerned, and willing to communicate.

On the other hand, patients reported that the most frequently sued doctors failed to treat them with respect or listen to their concerns, and that these doctors made them wait a long time to be seen but spent little time with them.

The patients of frequently sued doctors reported twice as many instances of their doctors shouting at them – an action which, though not malpractice in and of itself, certainly fits the bill of being rude.

Though research keeps emerging, the notion that doctors with a bad bedside manner are more likely to be perceived as practicing medicine badly isn’t new. As early as the 1990s, researchers noted “significant differences in communication behaviors”
between primary care physicians who had been named in malpractice claims and those who had not, the *Journal of the American Medical Association* reported. PCPs who had never been sued tended to spend more time with patients – if only by a few extra minutes. They educated patients more and included patients in the discussion of their medical care. They were also more likely to use humor in their interactions. “We were floored at how predictive communication variables are,” one of the researchers stated, according to *Relias*.

**The Motivations for Suing a Doctor**

“In this age of phenomenal technological innovations and highly successful treatments and cures, why is it that our customers, the patients, are dissatisfied with their health care to such a degree that they feel compelled to file a lawsuit?” researchers asked in an article in journal *Proceedings (Baylor University, Medical Center)*. The answer, in many instances, is “communication gaffes.”

This article notes that seeking compensation for actual losses and future medical care was one motivation for suing. However, it was far from the only or primary reason patients file malpractice lawsuits. Numerous studies have found that the most common reasons patients sue their doctors for malpractice include:

- The desire to make sure a similar incident doesn’t happen to future patients
- Patients’ need to understand why and how a negative outcome occurred
- The desire for accountability on the part of health care providers

Perhaps it’s no surprise, then, that patients whose doctors presented positive communication behaviors were more likely to see their physicians as competent and less likely to move forward with a lawsuit against either the doctor or the hospital. Even in cases of severe negative outcomes, patients whose doctors were good communicators were more likely to leave their doctors out of the medical malpractice suits they filed against the hospital, *The Western Journal of Medicine* reported.

**Communication After Malpractice and Patient Satisfaction**

Even after a medical error has been made, communication matters. Researchers have found that good, non-adversarial communication led to higher rates of satisfaction even among patients who received substandard care. Patients reported higher rates of satisfaction and feeling that their trust was mended when the doctors who committed malpractice took the time to listen to their patients’ feelings about the medical errors and to discuss with those patients what efforts would be made to improve safety in the future.

Those patients may still have moved forward with a lawsuit, though not all of them do. Certainly, no one is suggesting that good communication in and of itself outweighs the harm caused by poor medical care. However, with or without a lawsuit, open conversation was found to help meet patients’ “strong need to be heard,” *Reuters* reported.
In the legal arena, medical malpractice refers to departures from the standard of care that lead to patient harm. The standard of care means the guidelines set by the medical community.

Bad communication doesn’t always rise to the level of medical malpractice, but it can. A doctor who doesn’t greet you pleasantly may be simply rude. But a doctor who doesn’t listen to your symptoms and as a result misdiagnoses your medical condition, causing your prognosis to worsen, may have committed malpractice.

Whether or not malpractice occurs, a doctor’s bad bedside manner can be unethical, improper, or unprofessional. Patients do not have to tolerate being treated with disrespect or a lack of compassion. They are allowed to not only switch providers but also to report physicians whose conduct is unprofessional or unethical to state licensing boards.

How Big of a Deal Is Bedside Manner, Really?

You certainly want your doctor to be respectful, compassionate, and a good communicator. But do physicians have to treat patients with respect and compassion?

The less compassionate doctors out there might argue that they are too busy practicing the science of medicine to really “get” the whole communication and compassion aspect of caring for patients. They may (or may not) be good at treating medical conditions, but how they treat the patients afflicted by those conditions isn’t good.

In the most extreme circumstances, these doctors may take it upon themselves to make patients’ medical decisions for them, disregarding rules and laws about consent and patient autonomy. They may even suggest that their unheard patients should simply feel grateful for the medical care they receive without their input (or even against their will).

But this feeling of being denied a voice, of having no control over their own medical decisions, can be frightening and traumatic. The experience lingers long after patients leave the hospital. And one thing the research into communication and lawsuits has clearly shown is that how doctors talk to – and especially listen to – their patients matters. Communication, compassion, and respect for patient autonomy aren’t incidental to the work of practicing medicine. They’re integral, crucial qualities that good doctors should have.

In fact, the United States Bureau of Labor Statistics (BLS) lists qualities such as communication skills, compassion, and patience as among the most important attributes needed to work as a physician. These traits are right up there with problem-solving skills, dexterity, and physical stamina. Specifically, the BLS explains the importance of these three qualities as stated below:

1. **Communication skills** – Physicians and surgeons need to be excellent communicators. They must communicate effectively with their patients and other healthcare support staff.
2. **Compassion** - Patients who are sick or injured may be in extreme pain or distress. Physicians and surgeons must treat patients and their families with compassion and understanding.

3. **Patience** - Physicians and surgeons may work for long periods with patients who need special attention. Persons who fear medical treatment may require more patience.

Some instances of poor communication or a lack of compassion aren’t just an annoyance or an inconvenience. They may violate your patient rights.

**Yes, you absolutely have rights as a patient.** In New Jersey, those rights include the right to an “understandable explanation from your physician” about your medical condition, treatment plan, and options. You also have the right to receive full information before consenting to a medical procedure or to refuse a procedure you don’t want to undergo. In Pennsylvania, your rights include “the right to participate in the development and review of your treatment plan” and “the right not to be subjected to any harsh or unusual treatment.”

**What Can You Do About Doctors With a Bad Bedside Manner?**

If you find yourself under the care of a doctor with a terrible bedside manner, you might feel powerless. You’re at the mercy of these medical professionals – the people who are supposed to be experts – and when they refuse to listen to you or explain things, you may feel trapped or silenced.

Don’t be afraid to advocate for yourself. You can use these tips for talking with your doctor to help facilitate the kind of respectful, productive discussions you are entitled to.

Of course, communication is a two-way street. No matter how prepared you are or how much you advocate for yourself, you can’t make your doctor listen.

Unfortunately, there are doctors out there who will talk over, bully, or coerce patients into medical decisions they don’t agree with. **This is wrong.** If this has happened to you, please know that it’s not your fault – the blame falls squarely on the provider engaging in unethical or unprofessional conduct.

When you’re dealing with a doctor with a bad bedside manner, know your rights. Know that you have the right to a full, understandable explanation of your medical condition and all of your treatment options. If you aren’t in a position to advocate for yourself, ask trusted family or friends to intercede. Insist on speaking to a different doctor, senior-level personnel, or a patient relations representative.

You shouldn’t have to do all of these things just to be treated fairly and with respect. But sometimes advocating for yourself, even in the face of adversity, is the only way to make sure that you get the care you deserve.

If you’ve done the best you could advocating for yourself but you were unable to change your doctor’s poor communication and lack of compassion, it may be worth exploring further options.
• **Complain to the Hospital**: You can always submit both negative and positive feedback to the administrator of the hospital or the manager of the physician’s office. This action could bring about an internal investigation into your care and possibly prompt changes in hospital policies or personnel training efforts.

• **Recount Your Experience**: in a Patient Outcome Survey: For more than a decade, hospitals in the United States have been legally required to collect and report data through surveys of patient outcomes and experiences. Filling out these surveys honestly, and attaching as thorough an account of what happened as possible, can help make your experience known to people who have the ability to initiate changes.

• **File an Official Complaint With the State**: If you believe that the behavior wasn’t just rude but unethical or unprofessional, you can file a complaint with the state licensing board. The board can investigate and potentially take disciplinary action. New Jersey patients can file a complaint against doctors with the State Board of Medical Examiners, against nurses with the Board of Nursing, and against medical facilities with the Department of Health. For more information about health care complaints, check out this resource from the Department of Health. For Pennsylvania patients, complaints against licensed health care professionals can be filed here.

• **Pursue a Medical Malpractice Claim**: If you suffered harm due to your doctor’s actions – including communication failures and other unprofessional conduct – then you should speak to a medical malpractice attorney. It costs you absolutely nothing to have a private discussion with an experienced legal professional and determine whether or not you have a case and what options you may have. If you do choose to move forward with a claim, you won’t pay anything out of pocket for our legal services and will only ever owe a portion of the compensation your lawyer gets for you.

No matter the circumstances, as a patient, you deserve to be treated with respect and appropriate compassion. You are entitled to clear, understandable communication from the people providing your medical care. Your legal right to have input into your medical decisions – including informed consent and the right to refuse treatment – should not be taken from you.

If any of these unfortunate situations occurs, then you absolutely can take action.

© 2021 by Console and Associates. All rights reserved.

National Law Review, Volume XI, Number 84

**Source URL**: [https://www.natlawreview.com/article/bad-bedside-manner-or-medical-malpractice](https://www.natlawreview.com/article/bad-bedside-manner-or-medical-malpractice)