

When The Customer's Emotional Temperature Drops, So Does The Risk Of Lawsuits

Want better lawsuit protection? Conduct the right customer relations in addition to correct medical procedures.

By Ronald E. Retzke, Ph.D.

Good customer relations are needed to prevent claims and lawsuits, too.

As soon as "Mrs. Simmons" enters the facility to see her family member, a negative buzz begins. "Uh-oh—*she's* here." Staff scatter and hide, fearing an encounter. Why? Because they consider Mrs. Simmons a chronic complainer who is very hard to please.

Given today's litigious climate, during Mrs. Simmons' arrival, the facility's administrator might be in a staff meeting seeking ways to lower the risk of litigation. Perhaps the discussion centers around how to make charting and documentation more thorough, or a fresh review of policies and procedures for wound care, falls, or elopement.

Unfortunately, the meeting would be missing an immediate mark. In that moment, the most effective thing the administrator could do to reduce risk would be to go out and greet Mrs. Simmons with the spirit of someone who is trying to deliver quality customer service. And here's why: above all, Mrs. Simmons is a customer, not the slew of negative labels the staff attach to her. Realizing this and acting accordingly can be the first important step away from a potential lawsuit.

Is following the right medical policies and procedures important? *Absolutely.* Will attention to them reduce risk of litigation? Yes. However, other principles come into play when families sue health care providers according to

Vanderbilt University research. One of them is the "... compelling relationship between patients' dissatisfactions with interpersonal aspects of care and their decisions to file suit."¹

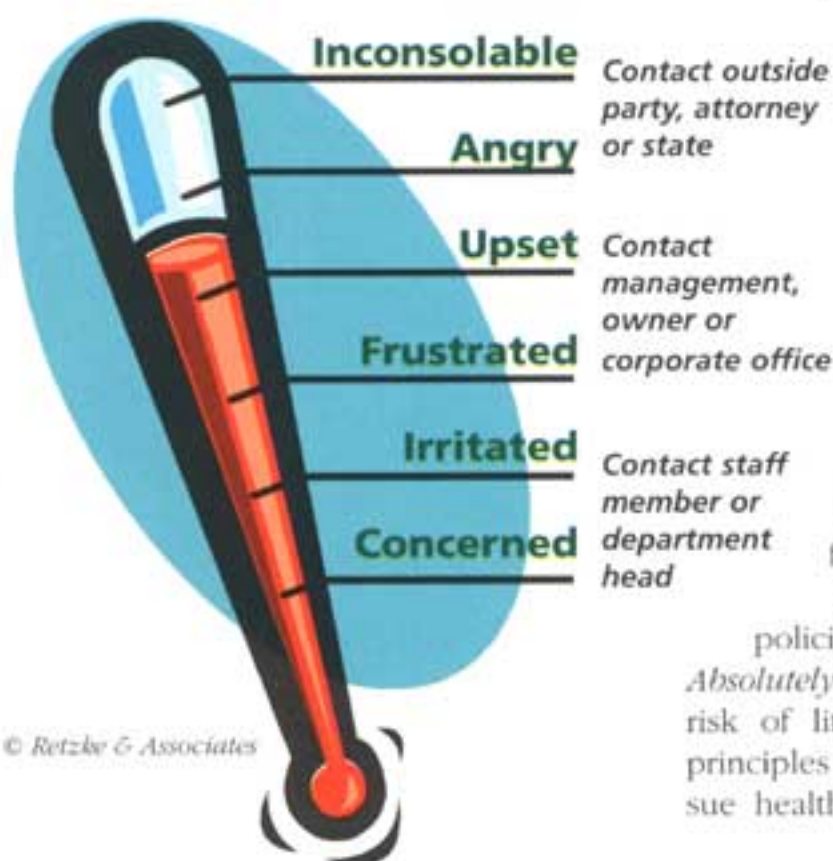
In fact, there is some evidence that as many as five to six times the number of patients file suit without valid claims than those with them.² What could account for this? Many families who enter nursing homes struggle with feelings of guilt and loss—they want information and support to help them cope.³ Often, a decision to take legal action springs from negative emotional energy that flares up when families think they perceive insensitive handling and poor communication.^{2,4}

Nip Problems In The Bud

A recent clinical journal article about the rash of lawsuits in nursing facilities clearly showed the importance of nipping customer frustration in the bud.⁴

It presented a case example of an elderly woman who fell, became bedridden, and developed a decubitus ulcer. A claim ensued. The facility was about to get it dropped because it could show that it had followed the Agency for Health Care Policy and Research guidelines in the care of the pressure ulcer. Thus, a conclusion one could draw is that following proper medical procedures is a key part of anti-lawsuit strategy.

But it's hardly the only one. The same article details the events that preceded the claim. The woman's daughter who contacted the attorney had experienced no fewer than 10 incidents of resident service failure. None sounded alarms at



© Retzke & Associates

the nursing facility, though they should have. In sum, staff had many opportunities to respond in a manner that could have prevented the daughter from resorting to legal action. Consequently, there's a second conclusion to be drawn: good customer relations are needed to prevent claims and lawsuits, too.

Picture An "Emotional Thermometer"

Imagine each resident with an "emotional thermometer" like the one illustrated on page 12, which I developed from extensive professional experience. Notice descriptors such as "concerned" and "irritated" in the lower ranges. At those levels, the resident is likely to take problems or concerns directly to staff or even a department head. Higher up, descriptors such as "frustrated" and "upset" appear. At these levels, the resident is more likely to ask to speak to a manager, the owner, or even the corporate office. Finally, at the very top, we find "angry" and "inconsolable." These are the levels where the resident will pursue redress with the help of an outside party—media, a state regulator, or an attorney.

When do facilities' actions have the greatest impact on their customers? To know that, consider when emotions are running highest for residents and family members.

Clearly, one such time period is the day someone is admitted to a facility. For them, it's marked by uncertainty, anxiety, confusion, and perhaps guilt. Of course, the same is hardly true for facility staff. For them, admissions are understandably commonplace events. They can easily get into a routine that lacks the sensitivity and attention that incoming residents and family members want and need.

Chances are many admission tasks are delegated to several people and each one is busy "just doing their job," without a full and clear sense of the impact.

But administrators can improve matters. First, they can meet with admissions staff and ensure that they understand the big picture of customer satisfaction and how each admission task has the potential to

affect it either positively or negatively. Secondly, they can dedicate themselves to monitoring the admissions process from start to finish. Towards its end, they can meet with the family to inquire about how things have gone and how they've been treated. This is a perfect opportunity to head off potential misunderstandings, anxieties, or problems.

First Impressions Important

Contacting families and residents early will create positive first impressions. It gives them reason to overlook minor lapses in communication or service, and begins to build their trust in the facility. Failure to do this can have the opposite effect. It can contribute to their having such a negative first impression that they look from that point on for additional examples and evidence of poor service. Before long, they are knocking on attorneys' doors.

A lot of little things can make a huge difference. For example, in the immediate post-admission days, a simple phone call or visit with new families by the administrator can have a tremendous positive impact. It sends an important message of concern, involvement, and availability. Furthermore, chances are it will be remembered should issues crop up later.

It's also critical how facilities handle things when problems develop. If the first reaction is, "Here is another difficult family," then it is likely the concern will be treated as something bothersome—an approach that is not conducive to good customer service. But if the complaint is regarded as a chance to show how deeply a facility cares for those in its charge, chances are much better that staff will make an appropriate attempt to resolve matters.⁴

"Frustrated, angry patients given a friendly, free, and approachable outlet are far less likely to seek lawyers or media publicity to resolve their feelings of anger or grief about an adverse outcome or inadequate service," according to one study.⁵ Need another reason to handle complaints properly? Research also shows that residents who have their complaint responded to are more loyal than those who do not get a response.⁶

Administrators can improve matters. They can meet with admissions staff and ensure that they understand the big picture of customer satisfaction.

Indeed, a service recovery dedicated to making things right with the customer must be a part of every facility's operational plan.

Sometimes, a resident will insist on resolving a complaint with persons outside the facility. Perhaps the problem is frustration with staff in getting issues resolved (most common), the seriousness of the situation, or it's just the resident's nature to want "to go to the top." It is important for the facility to have a complaint process established and promoted so that the complaint goes to the owner or corporate office. Failure to communicate this can result in residents contacting state officials, the media, or attorneys.

Surveys And CQIs Are Important

Problems can arise as well with residents who have otherwise been very satisfied for a long time. They may be precipitated by changes in the family, the facility, or staff, or an unfortunate lapse of resident service. The best defense is a "high-touch" approach that features personal relationships with families and residents, and emphasizes building trust between them and at least one staff member.

Bear in mind that surprises tend to raise the emotional temperature. Everyone understands the importance of communicating change, but equally important is collecting information about how families regard it. When the facility understands that a family member is unclear, misinformed, upset, unaware, or puzzled, it's an opportunity for them to lower the temperature on the family member's emotional thermometer and they should respond accordingly.

The emotional thermometer concept has implications for data collec-

Continued on page 18

Consultant pharmacists help to improve therapeutic outcomes by 43 percent and currently save about \$3.6 billion annually in costs associated with medication-related problems in nursing facilities.

party. The NCCMERP also recommends using automation, computer systems and patient profiles for conducting checks. The Council goes on to encourage pharmacists to counsel patients, with the counseling a chance to verify the accuracy of dispensing and the patient's understanding of proper medication use.

Nursing homes should continue to review best practices for pharmacy operations and implement any improvements. Establishing a pharmacy committee for reviewing medication errors would be a big, important step in the right direction.

Such measures should be taken right away. Medical errors are too dangerous

and too costly to do otherwise. Indeed, time is of the essence. But at least there is the consolation that steps can be taken to improve matters. ♦

Alan Clock is Corporate Vice President, Alternate Sites & Marketing, AmeriSource Health Corporation, Valley Forge, PA. Allen Zimmerman, R.Ph., is President & CEO, Pharmacy Healthcare Solutions (An AmeriSource Company), Grapevine, TX. They thank the American Society of Consultant Pharmacists and the National Coordinating Council for Medication Error Reporting and Prevention for the information they provided for this article.

When The Customer's Emotional Temperature Drops

Continued from page 13

tion and staff training, too. By keeping frequent contact with families and residents about concerns and problems, and maintaining a log or database, one can discern patterns in service delivery lapses. According to the Joint Commission Journal on Quality Improvement, "health care organizations need systems not only for reacting to patient complaints, but also for preventing as much dissatisfaction as possible from occurring in the first place."⁷ In an article on developing an early identification and response model for preventing lawsuits, it is noted that "...patient complaints are more frequent than lawsuits, allowing ... earlier and potentially more economically efficient interventions."²

The most reliable method for determining resident concerns is the distribution of a survey that solicits anonymous responses. Its very dissemination sends the message that the facility and company are interested in learning about problems. Failure to conduct a survey permits an incomplete picture of resident satisfaction.

A Continuous Quality Improvement (CQI) process is essential for getting employee involvement and ownership of the resident service task. It provides the facility with vital

information for adjusting training systems and procedures to improve resident service. It can also help prevent the reoccurrence of resident service problems. Without a CQI process, employees are immune from responsibility and accountability, and problems can become repetitive and elude solutions.

Finally, there should be resident service training for employees who have significant contact with residents and families (probably every staff member). Complaints often start with a resident's perception of poor employee attitude. Many small complaints can be resolved quickly if employees have a resident service mentality. Lack of a resident service program can destroy a facility's reputation. As the Joint Commission also notes, "all health professionals must be involved in efforts to resolve problems that compromise patient care."⁶ ♦

Ronald E. Retzke, Ph.D., is President of Retzke & Associates and a member of the Summit Group of Consultants. Dr. Retzke provides customer satisfaction workshops and consultation in setting up Continuous Quality Improvement and risk management programs. Contact: rretzke@execpc.com

¹ Hickson, G. et. al. "Development of an Early Identification and Response Model of Malpractice Prevention." *Law and Contemporary Problems*; 60(1), Winter 1997:9-29.

² *Ibid*, 9.

³ Hickson, G. et. al. "Factors That Prompted Families to File Medical Malpractice Claims Following Perinatal Injuries." *JAMA*; 267, March 11, 1992:1362-1363.

⁴ Barlow, J, Moller C. *A Complaint is a Gift*. Berrett-Koebler Publishers, San Francisco CA; 1996:10.

⁵ Pichert, J.W. et. al. "What Health Professionals Can Do To Identify and Resolve Patient Dissatisfaction." *Joint Commission Journal on Quality Improvement*, 24(6); June 1998:309.

⁶ Lee, C. "1-800 Training," *Training: The Magazine of Human Resources Development*, 27(8), August, 1990:39.

⁷ Pichert, James W. et. al. "Identifying Medical Center Units with Disproportionate Shares of Patient Complaints." *Joint Commission Journal on Quality Improvement*, 25(6); June 1999:288.

WWW.ACHCA.ORG

Visit www.achca.org for the registration form for next spring's Convocation! ♦