

## **PReP 14 — Adverse Events, Disclosure, and Apology**

### **Lesson 4 — Apology**

Pam:

Apology has always been a bit of a conundrum in the healthcare profession. People have always been worried that if they apologize or if they say that they're sorry for something, that that somehow means that they did something wrong. That they're liable. That they're going to be held accountable. That's never actually been true in the law. There are no cases that I'm aware of where someone made a mistake or an event happened and they said, "I'm sorry," and that was enough to prove the case. That doesn't prove the case. That's a piece of information. What proves the case is the facts. So "Did you do this, did this happen, how did it happen, were you culpable?"

### **Apology Legislation**

Pam:

A few years ago Ontario came out with the Apology Act. Really what it says is that if you apologize within the context of a medical error, adverse event, critical incident, it doesn't prove liability.

Kim:

Eight provinces and territories in Canada have apology legislation. This is put in place to avail concerns about litigation when harm occurs. The central tenets of apology legislation include that an apology is not an admission of liability. It cannot be seen as an admission of liability, and it cannot be used in court proceedings to prove or disprove liability.

Pam:

There is still a culture of fear, especially in the medical profession about getting sued. So that was why they were certainly much more reluctant to apologize. But certainly the CMPA, and the OMA, and the Canadian Medical Association have all adopted the notion that disclosure is good—it's required and it's important—and apology's okay. You should apologize if you actually have something to apologize for.

## **How to Apologize**

Pam:

What we know from research is that if you actually apologize authentically with care and honesty to patients, they really appreciate that.

Kim:

Much like when harm is disclosed, we recommend following many of those same practices.

Pam:

It's usually sort of a hand-in-glove sort of thing: the disclosure comes with the apology, the apology comes some kind of disclosure. So you're disclosing what happened, you're saying you're sorry it happened. You need to sit with people, you need to make sure they're ready to listen and hear you. You need to be clear about what you're apologizing about. Initially when things happen, of course it's fine to say, "I'm so sorry this happened. We're going to try and figure it out." And then you need to continue to have those conversations. So it's like any respectful, caring conversation. It should be done in a private place, sitting down, taking time, not being rushed, having the right people there that are the right people to do it with. And knowing that they might not accept the apology too. And being prepared for there to be some negative feedback. It's hard to do. You have to understand it's going to not be easy. It shouldn't be easy.

## **Get Help and Support**

Pam:

And the thing that makes disclosure and apology tricky is that for most people, a critical event or medical error or adverse event doesn't happen to them very often in their career. Which is good. So when you're going to do it, you need to sort of talk to somebody and go through it in your own mind, and even practice it if you have that opportunity.

Kim:

There are several avenues that professionals can seek help around making an apology or managing that process. One would be to seek out their employer's employee assistance program if there is one. Another would be to approach their regulatory college or professional association and see if either of those bodies could provide some as-

sistance at all. And increasingly as well, looking for resources in other organizations, such as CPSI, for guidance on different approaches and tactics that are evidence-based. That have been shown over time to help support employees when they find themselves in this situation.

Pam:

When an apology is done well, both parties, or all parties will have a restoration of their own sort of being, for want of another word. So the families will feel, hopefully, some restoring of trust, some restoring of faith in the organization. They'll feel their dignity has been respected, that their right to know has been met. From the professional's point of view, even though they're afraid to do it initially, it often actually improves their ability to get through the situation, and to realize that, "Yes, something bad happened, and I was able to be honest about it, I was able to apologize and my self worth actually feels better now. I can appreciate that I'm a professional, and I did make a mistake or something went wrong. And I'm still a good person. I'm still a good professional, I still know what I'm doing. This is a one-off, terribly unfortunate situation."

What we can do is try to be human with each other and show that we care about them and that we "really, really didn't mean for this to happen, and we feel—obviously not as bad as you do, it's not my family—but I feel really, really bad. And I never wanted this to happen." And I hope, in the best-case scenario, we get that through to them. And that's really healing for the professionals as well as for the family members.