



## CASE OF THE MONTH



# Taking Action to Save a Sinking Ship

by Robert Parhizgar MD, MBA, MS

This case involves a child who was diagnosed with sickle cell disease and asthma during his first year of life,<sup>1</sup> and was frequently hospitalized for ear infections, upper respiratory infections, and sickle cell pain crisis. At age one, the child's pediatrician referred him to an ENT clinic for an evaluation of his symptoms. Dr. B, an ENT surgeon, reviewed the medical records and performed a physical examination. He recommended the patient undergo a Bilateral Myringotomy Tympanostomy and Tubes (BMT) and adenoidectomy to eliminate the recurring ear infections and reported mouth breathing. Dr. B noted that because of past medical history of sickle cell disease, the patient should be hospitalized following the surgery for close observation and potential complications. The child's parents elected to follow Dr. B's recommendation and scheduled surgery.

### The Surgery

The day before surgery, Dr. G, an anesthesiologist, reviewed the case and noted that the patient was at a very high risk of brain injury and death due to the sickle cell disease and asthma. Dr. G recommended the pediatric team admit the patient the day before surgery to receive proper hydration. Her request was

not addressed. On the day of the scheduled surgery, Dr. G raised her concerns to Dr. B about the possible outcomes. Again, Dr. G's concerns were ignored, and surgery proceeded as planned.

The morning of surgery, Dr. B discussed the standard risks associated with the procedure and anesthesia with the child's father. However, he did not address the specific concerns presented by Dr. G that the patient had a considerable risk of brain injury and death because of the sickle cell disease and asthma.

### Surgery Complications

During the procedure, the child experienced respiratory difficulty and an abnormally increased heart rate that eventually decreased. The anesthesiologist tried to control the breathing throughout the procedure by adjusting the ventilator settings, but was unsuccessful. The fluctuating heart rate was not monitored regularly and medication to control it was not administered. The child's blood pressure was also not monitored and decreased dramatically.

During the procedure, the surgeon was informed of the poor ventilation, heart failure, and low blood pressure signaled by the monitoring devices, yet decided to

continue with the surgery. One hour into the surgery, the patient went into asystole. The surgical team performed cardiopulmonary resuscitation (CPR) for approximately 10 minutes until they regained rhythm.

### The Aftermath

Postoperatively, the child was diagnosed with permanent global neurological impairment due to anoxia from cardiac arrest. He now suffers from multiple daily seizures and is immobile and nonverbal. He requires 24-hour nursing care, ventilator assistance, and a feeding pump. Medical experts estimated his life expectancy to be no more than 21 years old.

### The Judgment

The child's parents filed a medical malpractice action in Maryland. The case proceeded to trial with a \$14.2M verdict, including \$770,000 in noneconomic damages, awarded to the child and his family. The court found that the anesthesiologist failed to manage the patient's cardiopulmonary deficits during the procedure and allowed the procedure to continue without gaining control of the cardiopulmonary system or ensuring the patient was stable to continue with the surgery.

The ENT surgeon was found negligent for not addressing the medical device alarms and anesthesiologist's concerns about the cardiopulmonary deficits and for failing to perform the procedure in the standard time (approximately 25 minutes). The court also found that the physician breached the duty to inform the child's parents of the serious increased risk of the patient's comorbidity because of the sickle cell disease and asthma.

### Key Takeaways

Treatment of any patient should be a coordinated effort by a comprehensive care team who can collectively address concerns and collaborate on the best course of treatment with the team lead.

In this case, the care team included the pediatrician, ENT physician, anesthesiologist, and other ancillary staff members. When the anesthesiologist reviewed the patient's records, she recommended the patient be admitted to the hospital for fluids and other medical treatments to reduce risk of brain injury and death. Her advice was ignored, but as a vital member of the team and expert on the side effects of anesthesia, she should have cancelled the procedure. If any member of the care team voices valid concerns, all alternative options should be considered and explored.

Another issue was the clarity of the informed consent and the explanation to the parents of the risks and benefits of the procedure. In this case, the ENT surgeon provided an explanation of the procedure's risks and benefits using standard terminology without explaining the specific risks to this child, i.e., death and brain injury, given his history of sickle cell disease and asthma. As the anesthesiologist reviewed the documentation and consent, she should have asked why the increased risk of death and brain injury was not included.

In conclusion, every care team member is an expert in their specialty. The surgeon is an expert in performing the procedure, the anesthesiologist is an expert in providing anesthesia during the procedure, and the pediatrician is the expert in medically managing the patient before and after the procedure. Accordingly, every care team member should listen to one another to provide the best treatment possible for the patient.



*Robert Parhizgar is a Senior Risk Management & Patient Safety Specialist. Questions or comments related to this article should be directed to [RParhizgar@CAPphysicians.com](mailto:RParhizgar@CAPphysicians.com).*

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#### References

<sup>1</sup>O'Neil, Madeleine. "Family wins \$14M medical malpractice verdict over son's botched surgery." Maryland The Daily Record June 27, 2022. <https://thedailyrecord.com/2022/07/27/family-wins-14-million-medical-malpractice-verdict-over-sons-botched-surgery/>

# RISK MANAGEMENT AND PATIENT SAFETY NEWS



## Strategies for Resolving Conflict to Enhance Patient Care and Fostering a Positive Work Environment

by Robert Parhizgar MD, MBA, MS

In medicine as well as any other profession, conflict is inevitable. Medicine is a high pressure and high stakes profession where errors, misunderstandings, and misinterpretations are inevitable. How individuals resolve these situations and conflicts will determine their effectiveness in providing the best care possible to their patients. Meaningful conflict resolution provides a positive and inviting workplace for the members of the healthcare team and organization.

Medicine is based on open communication, evidence-based therapy, and compassion and empathy for patients. A 2016 study that was reported in the British Medical Journal found that 70 percent of preventable medical errors happened because of poor communication and teamwork.<sup>1</sup> If issues are addressed in a timely and productive manner, errors can be prevented, and best practices can be implemented to help reduce risk in the medical setting.

### Where Does Conflict Originate?

Conflicts arise from shifting and competing priorities, poor communication, differing expectations, limited resources, and interdependencies. During the COVID-19 pandemic, many physicians became fatigued from adjusting to new protocols, rules, and regulations for taking care of patients while ensuring staff remained safe and healthy. Amidst a stressful and uncertain period, it is critical that providers align in different ways to address conflicts to provide the best care possible.

There are four interpersonal factors that can lead to conflict: personal differences, informational deficiencies,

role incompatibilities, and environmental stressors.<sup>2</sup>

In medicine, like in other professions, individuals in different roles have varying personalities and communication styles. When information and role clarity are lacking, patient care can be compromised. Healthcare teams who work in high pressure environments must effectively find ways to collaborate for the best possible outcomes.

### Conflict Resolution Styles

Addressing conflict is an important and vital component of a productive workplace culture that values respect and collegiality. If communication within an organization is not effectively utilized, members of the team will deviate from procedures or avoid working with key team members. There are several resolution styles that can help resolve conflicts.<sup>3</sup>

#### 1. Avoiding

Avoiding conflict resolution is used when there is no consequence for waiting to address the issue. It gives everyone time to reduce the emotional tension, think clearly, determine what is most important, and resolve the conflict in a calm and effective manner.

#### 2. Compromising

For time-sensitive issues that require a temporary solution when other options are unavailable, compromise may be in the patient's best interest. This conflict resolution style may be viewed as short-lived, and future discussion will be needed for a long-term solution.

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### 3. Controlling

This style is used in certain situations where quick and decisive action is taken by a qualified decision-maker on the patient's behalf within a limited time frame because the patient's life is at stake. Some involved in the conflict may feel ignored and become resentful. It is important to make sure that everyone understands and appreciates that the urgent goal of taking care of the patient is the most important objective, while emotions and feelings are put aside.

### 4. Collaborating

Collaborating is effective when everyone is willing to compromise and explore all possible options. This style can create a productive and positive environment to achieve a long-term solution while sustaining healthy relationships with those involved in the conflict. The downside to this style is that it is time consuming. If a quick resolution is needed, this approach is unrealistic.

### 5. Accommodating

Finally, this style is one that creates goodwill and allows everyone to express their points of view and their position within the conflict. However, resolution

of the conflict may be restricted and undervalued by some because they may end up disagreeing with the ultimate decision.

## Effective Communication Skills

There are five effective communication skills to help de-escalate conflict.<sup>4</sup>

### 1. Listen actively

Observe nonverbal gestures to understand how others are reacting to the situation. Do not interrupt others and be respectful of everyone involved in the discussion. Be patient and wait to give your opinion. Do not change the subject until the issue is resolved.

### 2. Find common ground

Seek common ground for potential solutions. Reduce potential barriers that could lead to escalation or hinder any resolution.

### 3. Acknowledge everyone involved

Understand and acknowledge others' positions. Keep an open mind and be willing to compromise to achieve a common goal to resolve the conflict.



#### 4. Apologize when needed

Be willing to offer and accept apologies as appropriate.

#### 5. Act as a team

With every conflict there are multiple points of view and multiple objectives that each individual values as important. Work together without blaming or judging anyone involved. Throughout the discussion clarify who is responsible for the next step in the conflict resolution.

### Conflict Resolution Strategies

Several strategies can be used to address underlying human behaviors that contribute in a conflict:<sup>5</sup>


**Strategy #1:** Both parties in a conflict typically think they are right because they cannot imagine that they could be wrong. What would constitute a fair conflict resolution is seeing a situation from another person's perspective, a feat that is often difficult to do. Be unbiased and fair to reach a common ground.

**Strategy #2:** Avoid escalating the situation with threatening or aggressive behavior. If you are feeling ignored, do not try to capture the other party's attention by making threats such as litigation or take it or leave it offers that will worsen the conflict. Before making a threat, make sure you have exhausted all other options for managing the conflict.

**Strategy #3:** Overcome the “us versus them” mentality by having a good connection with your group. Building loyalty and strong relationships with members of the healthcare team can be useful within an organization. However, during conflict, a strong group connection between some may lead to hostility and suspicion towards others. To establish fair and sustainable relationships, identify and discuss points of similarity between the groups to achieve a resolution.

**Strategy #4:** Look beneath the surface to identify deeper issues. The conflict could be one that stems from an overall perception of how we are treated and respected. The next time you find yourself arguing, put the conversation on hold and determine the major issues of the conflict that you would like to be resolved, and find common ground and come to an agreement.

### Summary

All organizations and healthcare teams experience conflict. Effective resolution is necessary to ensure that patient care is not compromised. Proven tools and communication techniques should be used to resolve conflicts and ensure a positive and inviting workplace environment where everyone feels safe and comfortable expressing their points of view. 

*Robert Parhizgar is a Senior Risk Management & Patient Safety Specialist. Questions or comments related to this article should be directed to [RParhizgar@CAPphysicians.com](mailto:RParhizgar@CAPphysicians.com).*

#### References

<sup>1</sup> Liu W, Gerdtz M, Manias E. Creating opportunities for interdisciplinary collaboration and patient-centered care: how nurses, doctors, pharmacists, and patients use communication strategies when managing medications in an acute hospital setting. *J Clin Nurs* 2016;25:2943-57

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<sup>3</sup>Thomas, K. W., & Kilmann, R. H. (1974). Thomas-Kilmann Conflict Mode Instrument (TKI)

<sup>4</sup>Payton J. Improving Communication Skills within the Nephrology Unit. *Nephrol Nurs J*. 2018 May-Jun;45(3):269-280.

<sup>5</sup>Behfar, K. J., Peterson, R. S., Mannix, E. A., & Trochim, W. M. K. (2008). The critical role of conflict resolution in teams: A close look at the links between conflict type, conflict management strategies, and team outcomes. *Journal of Applied Psychology*, 93(1), 170-188.



# Important Notice: 2024 Credit Card Fees



Any CAP members making payments to CAP by credit card on or after January 1, 2024, will be charged a 3% fee of the amount billed.

The 3% fee will take effect so that the significant costs associated with credit card processing fees are no longer absorbed by CAP and no longer shared as a collective cost by the entire membership, including those who do not use credit cards.

By implementing the 3% fee, CAP can reduce costs to help keep rates for medical malpractice coverage as stable and as affordable as possible.

This fee will apply to any credit card payment made online, or by autopay, mail, phone, or other method. This is now a standard practice among many businesses, merchants, and even medical groups themselves.

**In addition to the 3% credit card fee, CAP will no longer accept payments made by debit card.**

Automated Clearing House (ACH) payments using your bank account may be the best method for making individual/one-time payments or automatic payments every month.

**To avoid the fee in the future, set up one-time or automatic monthly ACH payments when you log in to your account.**

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## Here's How:

1. Visit <https://member.capphysicians.com> to log in to your CAP account.

If you do not have an account, you will need to register to create one at <https://member.capphysicians.com/register>.

2. Once logged in, make sure to go paperless if you have not already done so by selecting the green “Set Up Paperless Billing” button.

3. Select the “Via Email Only” button.

4. Verify your email address and click the “Save Changes” button.

5. Then, simply click on the “Pay CAP Bill” button (agree to the terms and conditions when prompted) and follow the instructions to set up autopay payments by clicking on the “Set Up Autopay Payments” and provide the required information for recurring payments made by ACH.

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For assistance with your account, or if you have questions about your membership or the new credit card fee, please call

**800-610-6642** or email [MS@CAPphysicians.com](mailto:MS@CAPphysicians.com). ➔

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By Andie Tena

# Maximizing Technology to Enhance Practice Operations

Integrating technology into a medical practice can enhance efficiency, improve patient care, and streamline administrative tasks. There are several key areas where technology can be implemented into a medical practice to optimize and streamline the flow of the practice and help to increase revenue.

## 1. Electronic Health Records (EHR):

If you have not already implemented a HIPAA-compliant EHR into your practice, you may want to consider doing so for the following reasons:

- Transitioning from paper records to an EHR can ease access, storage, and retrieval of patient information, especially as independent physicians consider the pending requirement for data sharing in 2026.
- Allows patient health information (PHI) to be securely stored in the cloud.
- Provides the patient with an opportunity to securely communicate with their provider via the patient portal, reducing the number of phone calls into the practice. The patient portal may also allow patients to access their health records and lab results.
- Educational resources and materials, as well as patient acknowledgment forms can be sent through the portal to empower patients to take control of their health.

## 2. Practice Management Software:

- Use practice management software to streamline scheduling, billing, and other administrative tasks.
- Many practice management systems' software integrates with existing EHRs or may be added on to a new EHR platform.
- Implement automatic tools for appointment reminders and online scheduling, which can reduce administrative burdens and allow staff to interact more personally with patients and increase patient satisfaction.

## 3. Telemedicine:

- Integrate telemedicine solutions to offer HIPAA-compliant virtual visits, which can improve access to care and reduce patient wait times.
- Current telemedicine waivers have been extended to December 31, 2024.

## 4. Remote Monitoring Devices:

- Utilize wearable devices and other remote monitoring tools to collect real-time patient data that may integrate into the EHR for a more comprehensive view of a patient's health.

## 5. Decision Support Systems:

- Implement decision support tools that assist healthcare professionals in making informed and evidence-based decisions.

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- These tools can provide alerts for potential drug interactions, suggest treatment options, and offer diagnostic support.

#### 6. Data Analytics:

- Use data analytics to analyze patient trends (no shows, number of visits booked as compared to number of visits available), revenue key performance indicators (KPIs), and areas for practice improvement.

#### 7. Cybersecurity Measures:

- Implement robust cybersecurity measures to protect patient data and ensure compliance with privacy regulations.
- Conduct an annual security assessment and train staff on cybersecurity best practices.

#### 8. Training and Support:

- Provide ongoing training for staff on the use of new technologies.
- Offer technical support to address any issues and ensure a smooth transition to new systems.

#### 9. Collaboration Tools:

- Use collaboration tools for secure communication among healthcare providers within the practice.
- Implement video conferencing solutions for virtual meetings and consultations.

Before implementing any technology, it's crucial to assess the specific needs of the medical practice, involve stakeholders in the decision-making process, and ensure compliance with relevant healthcare regulations. Additionally, ongoing evaluation and optimization of technology use will help ensure the continued effectiveness of the implemented systems and the success of the practice. ➔

## CAP Has Moved!

The Cooperative of American Physicians, Inc. (CAP) has relocated its headquarters from the 8th floor to the 12th floor of the Bank of America building in Downtown Los Angeles. Please update your records to reflect CAP's new address:

**Cooperative of American Physicians, Inc.**  
**333 South Hope Street, 12th Floor**  
**Los Angeles, CA 90071**

All other contact information, including phone numbers and email addresses, remains unchanged. Should you have any questions or require assistance, contact us at 800-252-7706. We look forward to serving you from our new location!



# Independent Physicians Have a New Ally in Sacramento

by Gabriela Villanueva



On November 1, 2023, Physician Association of California (PAC) launched as a new advocacy organization representing solo and small practice physicians in California.

The Cooperative of American Physicians (CAP) is pleased to align with this new association to enhance its efforts to influence legislative and regulatory issues impacting its more than 13,000 members. PAC's mission is to add the collective and unique voice of California's independent physicians to relevant policy discussions and address issues affecting their ability to provide quality care and sustain a successful medical practice.

As independent physicians continue to navigate an ever-changing and challenging healthcare landscape dominated by large health systems, it is critical that more resources and policies are implemented to support sustainable private practices. PAC will

work directly with state legislators to help them understand the critical role independent physicians play in healthcare and provide avenues for physician engagement.

Matt Robinson, JD, will lead the organization as CEO. He has extensive experience and a long history in Sacramento in healthcare advocacy and is committed to making an immediate impact.

As a benefit of CAP's exciting relationship with this new association, all CAP members receive an automatic complimentary membership in PAC and will have the opportunity to influence and even directly work with policymakers on issues impacting their practices, through committee hearings, legislator meetings, events, and more.

To learn more about your free membership and receive additional information directly from PAC, please visit: <https://pac-md.org/membership/#member-section> ↩

*Gabriela Villanueva is CAP's Government and External Affairs Analyst. Questions or comments related to this article should be directed to [GVillanueva@CAPphysicians.com](mailto:GVillanueva@CAPphysicians.com).*

PUBLIC POLICY

## 2023 Disclosure Statement

Each year, we publish the Disclosure Statement, which gives an overview of operations for the Cooperative of American Physicians, Inc. (CAP) and the Mutual Protection Trust (MPT) pursuant to California Insurance Code Section 1280.7.

The 2023 Disclosure Statement is now available and can be reviewed at any time in the Member's Area of the CAP website at <https://member.capphysicians.com>

For questions, contact CAP at 800-252-7706.

# Important Information About CAP Member CyberRisk Insurance Benefits



Healthcare facilities and medical groups continue to experience a dramatic increase in the frequency and severity of claims as a result of ransomware and phishing attacks.

As today's risks are more threatening and prevalent, it is important for you to remember the value-added insurance coverages CAP provides as part of your membership, including CyberRisk insurance. **This cyberliability policy covers up to \$50,000 and 5,000 patient notifications per covered claim should you experience a data breach in your practice.**

**CAP members should note that their CyberRisk insurance includes a \$2,500 deductible per covered claim.**

In addition, your CyberRisk insurance benefit is subject to a shared annual aggregate limit of \$10,000,000, which means that all amounts paid under CyberRisk on your behalf and on behalf of all other CAP members will reduce and may completely exhaust such shared annual aggregate limits. If the shared annual aggregate limit is exhausted, your individual CyberRisk limits will also be deemed exhausted, and there will be no further CyberRisk insurance benefit available to you or others for the remainder of the year.

To avoid potential claims, CAP encourages all member practices to implement strict cybersecurity measures. As part of the benefits of your CyberRisk insurance, you and your staff can access **free HIPAA training courses on how to prevent data breaches, and much more at <https://CAP.nascybernet.com>**. First-time users will need to sign up for a free account with your CAP member number as your "Sign Up Code." Once you have registered, you will be able to create usernames and passwords for your employees also.

**To report any claim or potential incident, please contact Tokio Marine HCC below, advise that you are a CAP member, and give your CAP member/entity number:**

**Tokio Marine HCC - Cyber & Professional Lines Group**

**Claims Department 16501 Ventura Blvd., Suite 200 Encino, CA 91436**

**Claims Telephone Number: 888-627-8995 Claims Email Address: [cpl.claims@tmhcc.com](mailto:cpl.claims@tmhcc.com)**

**There are no upfront costs to report a claim or potential claim.** Tokio Marine HCC's goal is to get you back up and running while reaching a successful resolution. When it comes to providing expert breach response, Tokio Marine HCC's in-house claims team considers the needs of each member.

**Now is a good time to explore purchasing additional CyberRisk insurance available at excellent rates through Symphony Health, a division of Symphony Risk Solutions.** Symphony Health is CAP's exclusive sponsored insurance agency for your business and personal insurance needs, supplementing your medical malpractice coverage from CAP. Contact Symphony Health at **800-819-0061** or via email at **[healthcareservices@symphonyrisk.com](mailto:healthcareservices@symphonyrisk.com)** to learn more or request a free consultation. ➦

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## No-Cost Assistance Program for CAP Members: Professional Support and Guidance for Everyday Life

As 2024 begins, you and your family may be considering new goals, engaging in new life events, or simply navigating existing personal or professional situations. Now may be the time to get assistance to help support your well-being. CAP members and their families have access to MetLife's Employee Assistance Program providing confidential and professional help for a variety of issues.

This program offers access to experienced counselors provided through LifeWorks—one of the nation's premier providers of Employee Assistance Program services—who can help you with:

- **Family:** Divorce, caring for an elderly family member, returning to work after having a baby
- **Work:** Relocation, building relationships with coworkers and staff
- **Legal:** Issues relating to civil, personal, and family law, financial matters, real estate, and estate planning
- **Money:** Budgeting, financial guidance, retirement, buying or selling a home, taxes
- **Identity Theft Recovery:** ID theft prevention tips and help if you are victimized
- **Health:** Anxiety/depression, proper amount of sleep, unhealthy habits
- And much, much more!

### Take Advantage of This Free Program

Call **1-888-319-7819** to speak with a counselor or schedule a phone or video conference appointment.

When you call, select "Employee Assistance Program"

when prompted and immediately get connected to a counselor. Provide your name and identify yourself as a member of the Cooperative of American Physicians. Family members will need to identify themselves as a dependent of a member of the Cooperative of American Physicians.

Or

Log on to [metlifeeap.lifeworks.com](https://metlifeeap.lifeworks.com), and provide the username **metlifeeap** and password **eap**, to access free resources online.

This program is provided through MetLife and is made available to members through CAP's affiliation with Symphony Health, a division of Symphony Risk Solutions.

Contact Symphony Health at [800-819-0061](tel:800-819-0061) or via email at [healthcareservices@symphonyrisk.com](mailto:healthcareservices@symphonyrisk.com) to learn more or request a free consultation.

*Your benefit includes up to five phone or video consultations with licensed counselors for you and your eligible household members, per issue, per calendar year. Any personal information provided is completely confidential.*

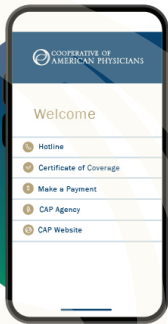
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We welcome your comments! Please submit to [communications@CAPphysicians.com](mailto:communications@CAPphysicians.com).

The information in this publication should not be considered legal or medical advice applicable to a specific situation. Legal guidance for individual matters should be obtained from a retained attorney.

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