

Building Patient Confidence to Mitigate Legal Risks



The value of constructive communication when advising previously treated patients.

BY JOHN P. BERDAHL, MD

Emotional intelligence is a crucial skill for ophthalmologists, especially in the context of second opinion patient consultations. We must be able to communicate effectively and understand what patients need, often beyond the words they use. The 58/35/7 rule holds that 58% of communication is nonverbal, 35% depends on tone, and only 7% depends on the actual words. According to this rule, the majority of what we convey and interpret in consultations does not come from our spoken language but from how we present ourselves and how we speak.

As described by Malcolm Gladwell in his book *Blink: The Power of Thinking Without Thinking*, researchers demonstrated that they could predict with 70% accuracy which doctors might face legal challenges by observing only their body language, without any knowledge of the doctor's specialty, the patient involved, or the medical issue at hand.¹ This study highlights how critical nonverbal cues are in our profession. As cataract and refractive surgeons, our ability to manage and convey emotions effectively can influence patient trust and satisfaction significantly, reducing the risk of misunderstandings and subsequent legal issues.

EFFECTIVE COMMUNICATION STRATEGIES

One of the most effective strategies to mitigate risk in patient interactions comes into play the moment we enter the exam room. It is essential that we approach each patient encounter with a deliberate slowness by entering the room calmly, taking the time to wash our hands thoroughly while the patient is present, and making a conscious effort to shake their hand and maintain eye contact. These actions, though seemingly simple, set a pace that feels unhurried and attentive.

Practical Resources for Enhancing Emotional Intelligence

There are valuable resources and practices that can help ophthalmologists looking to enhance their emotional intelligence, especially those who may not naturally excel in this area. Chris Voss' MasterClass, *The Art of Negotiation*,¹ and his book *Never Split the Difference: Negotiating as if Your Life Depended on It*² provide insightful techniques for managing communication in tense situations. This skill is crucial not only in negotiations but also in medical consultations. Additionally, the book *Crucial Conversations: Tools for Talking When Stakes Are High* offers strategies for maintaining control of conversations and deescalating conflicts.³ These resources are essential for any medical professional looking to improve their ability to handle delicate patient interactions.

1. Voss C. *The Art of Negotiation*. MasterClass. 2024. Accessed April 12, 2024. <https://www.masterclass.com/classes/chris-voss-teaches-the-art-of-negotiation>

2. Voss C, Raz T. *Never Split the Difference: Negotiating As if Your Life Depended on It*. Harper Business; 2016.

3. Patterson K, Grenny J, McMillan R, Switzler A. *Crucial Conversations: Tools for Talking When Stakes Are High*. 2nd ed. McGraw Hill; 2011.

By devoting an extra 10 seconds to these introductory gestures, we establish a tone of thoroughness and care from the beginning. This can influence the patient's perception of the entire visit and make them feel valued and respected. Such a start not only enhances patient comfort but also builds a foundation of trust that can facilitate more effective communication throughout the examination and consultation.

Deliberate actions like these are not just about politeness. They are also strategic, fostering an environment where patients feel more open to sharing their concerns and more receptive to our advice and instructions. This can be crucial when we are delivering complex diagnoses or discussing sensitive treatment options (for a list of resources to improve your emotional intelligence skills, see the sidebar).

UNDERSTANDING THE DRIVERS BEHIND SECOND OPINION CONSULTATIONS

Several common scenarios prompt patients to seek a second opinion. Understanding these can help us address their concerns better and manage their expectations effectively.

Anxiety Levels

Some patients are inherently more anxious about medical procedures and their potential complications. Their

anxiety can sometimes manifest as anger or intense worry, driving their need for a second opinion to reassure them or explore other treatment options they perceive as safer or potentially more effective.

Complications

Patients who experience complications or whose conditions are particularly severe or unusual often seek second opinions to ensure all possible treatment avenues are explored. These individuals include those seeking reassurance about the management of their condition and those looking for innovative treatment options not previously offered.

Unmet Expectations

Whether undergoing cataract surgery, refractive surgery, or glaucoma treatment, patients often have specific outcomes in mind that, if not achieved, can lead them to seek further confirmation or alternatives. This is particularly true with surgeries where both functional and aesthetic outcomes are crucial and highly anticipated by the patient.

ADDRESSING THE PATIENT'S EMOTIONAL STATE

Patients seeking a second opinion often have heightened concerns and a unique set of emotional needs. The

approach we take in these consultations is crucial to how they perceive and accept the information we provide. A key strategy is positioning ourselves not just physically but also emotionally alongside our patients.

A traditional face-to-face setup can feel confrontational. Sitting next to the patient—shoulder to shoulder—signals that we are partners in addressing their concerns. The latter arrangement helps emphasize that our objective is to solve the problem collaboratively rather than to challenge the patient or critique another doctor's diagnosis.

We must encourage the patient to express, in their own words, what their primary concerns are and what improvements they hope to see. Asking a patient, "What is it that, if improved, would make your life better?" opens a dialogue that is based on their personal experiences and expectations. This approach can not only make the patient feel heard but also clarify their priorities, which is essential for effective communication and decision-making.

NAVIGATING DIVERGENT MEDICAL OPINIONS

In a situation where my professional opinion differs significantly from that provided during a patient's first consultation, I proceed with openness and humility. I often begin the conversation by acknowledging that no single physician holds a monopoly on the truth. This sets a respectful tone and underscores the reality that competent doctors can have differing views on the best course of action.

I may say, "I don't have a monopoly on truth, but I will tell you what I would do if it were my eye or if you were a family member of mine." A personal approach can help demystify the medical options and make the consultation more relatable. It is important to convey that, although doctors may have varying opinions, each is guided by what they genuinely believe to be in the best interest of the patient.

I strive to guide patients toward what I consider to be the best course of action, while respecting the legitimacy of other medical opinions. Acknowledging that earnest differences can exist helps patients understand the complexity and nuances of medical decisions, which in turn aids them in making informed choices about their health care.

THE IMPORTANCE OF DOCUMENTATION

Documenting a second opinion consultation is not just a matter of best practice. It is also an important element of effective patient care and legal precaution. In these consultations, where opinions and treatment paths can diverge significantly from initial recommendations, thorough documentation ensures clarity.

I strongly recommend not only keeping appropriately detailed records within the patient's medical files but also providing the patient with a letter summarizing the discussion and decisions made during the consultation. This gives patients something tangible that they can review at their leisure, which helps them understand and recall the advice given without having to rely solely on memory.

Should patients need to consult with yet another specialist or return to their primary physician, the documentation provides a clear, unambiguous account of my findings and recommendations. This information is vital to maintaining a coherent treatment strategy across different providers and ensures that all parties involved are well informed of the patient's condition and the thought process behind the recommended treatments.

EMOTIONAL INTELLIGENCE AND TEAM DYNAMICS

The role of emotional intelligence within the surgical team becomes crucial when managing referrals for second opinions. Patients' trust in the practice begins the moment they learn about it—whether through advertising, word of mouth, or the initial phone call to schedule an appointment. It is essential that each interaction reflect the core values of the practice, with a clear focus on the patient's best interests.

At Vance Thompson Vision, we actively train our team in emotional intelligence. In doing so, we ensure that they can effectively communicate empathy, professionalism, and competence at every touchpoint with the patient. Our team's ability to convey understanding and genuine concern significantly affects how patients perceive the care they receive. This is especially important in the context of second opinions because patients may arrive with concerns or dissatisfaction from previous experiences. A team that demonstrates high emotional intelligence can alleviate patient anxiety, make them feel valued and understood, and thus enhance their overall confidence in the care provided. ■

1. Gladwell M. *Blink: The Power of Thinking Without Thinking*. 1st ed. Back Bay Books; 2007.

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- Financial disclosure: None acknowledged