Treatment errors in hospital: Exposing - apologize - compensate

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In dealing with medical errors, we can learn from the United States. A plea for Disclosure-Apology-and-offer programs

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The current annual statistics of the Medical Service of the Central Federal Association of Health Insurance brings a vexed issue back on the table: Treatment errors and damages. The Medical Services of health insurance in 2012 have recorded a total of 12 483 reports on suspected treatment failures in 31.5 percent of cases, treatment failure was confirmed (1). Since there is no central reporting system for medical errors exist, there are also different numbers: The Federal Ministry of Health estimates a number 40000-170000 medical errors annually (2), the Coalition for Patient Safety is of significantly higher numbers of (3).

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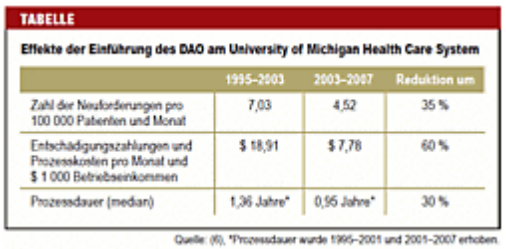
The question is whether treatment failure at best should be addressed where they occur: in the hospital, jointly by the treatment team and patients. And not in court, the lawyer or in arbitration boards. Programs in the U.S. show that as cost, time and nerves can be saved on all sides. In "Disclosure, Apology and Offer Programs" (in short: DAOs) share hospitals and patients directly from their own initiative with treatment failure (Disclosure), apologize for this (Apology) and offer financial compensation for damage to (Offer). DAOs can save time and money, allow continuous improvement of the health system and comply with the dignity of the physician and patient. Not least, the confidence of the patient is restored to the treatment team.

Save time and money

Two hospitals in the U.S. have their experiences with DAOs been evaluated and found in the literature attention:

- The Veteran Affairs Hospital in Lexington already led a 1987 DAO and has made good experience. From 1990 to 1996 Lexington had in comparison with other Veterans Affairs hospitals, although per workload more damage claims for malpractice on, but no more than a total average compensation paid (4). This is due to lower compensation payments per treatment errors. Kraman and colleagues also suspect that the hospital was able to record savings from a shorter process time per case (4).
- The University of Michigan Health Care System led from 2001 to 2003, a DAO, which excuses for negligence included (5) and reported an impressive reduction in the cost of compensation claims (6) (Table). Across the pivotal figures in respect of damages and extrajudicial agreement is a strong decrease. However, the statutory basis for liability in Michigan was reformed at the same time so that it remains unclear is what proportion of the cost reduction due to each change in the law and the DAO implementation.



TABELLE

Effekte der Einführung des DAO am University of Michigan Health Care System

	1995–2003	2003–2007	Reduktion um
Zahl der Neuforderungen pro 100 000 Patienten und Monat	7,03	4,52	35 %
Entschädigungszahlungen und Prozesskosten pro Monat und $ 1 000 Betriebseinkommen	$ 18,91	$ 7,78	60 %
Prozessdauer (median)	1,36 Jahre*	0,55 Jahre*	30 %

Quelle: (6), *Prozessdauer wurde 1995–2001 und 2001–2007 erhoben.

Table

Effects of the introduction of the DAO at the University of Michigan Health Care System

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There are in the United States but also researchers and doctors who are convinced that a large-scale introduction of DAOs would lead to higher costs. Because if more patients erführen by the voluntary open cover of the hospital medical errors, there would be a much larger number of potential claimants (7). Studdert and colleagues (8) suggests that the number of damage claims more than doubled. Even at 40 percent savings per compensation payment (in comparison: The Michigan Health Care System, 60 percent had indicated in savings for compensation and legal costs together) an increase in the cost would be very likely according to their estimate. According to a representative survey conducted by Lamb and colleagues (9) go 37 percent of the Hospital Risk Managers in the United States believe that lawsuits due to medical errors would increase by a DAO implementation, with a 33 percent decrease and 25 percent no difference suspect. However, these estimates are based only on expert opinion and not on actual patient reactions. Whether DAOs can compensate for the likely higher number of bad cases by lower costs per claim case, so can not say for sure.

In Germany, more claims could be made for the introduction of DAOs, because many patients do not know today what they can do in the event of treatment failure (3). Similarly, the potential remains for saving, because openness and excuses can quickly and lead to a lower amount of compensation. There are in Germany but for lack of a central residence for medical malpractice neither precise information on the number of suits available, were tested nor, to the knowledge of the authors DAOs ever, an estimate for Germany is almost impossible. A model experiment, which is based on the positive experiences in Michigan and Lexington, would be a first step to gain clarity on the financial impact of DAOs in Germany.

Learning from mistakes

The identification of sources of error in the increasingly complex health care requires also an open approach to medical errors. In the first place the confirmed treatment errors are errors during therapeutic intervention. Further treatment errors happen in the field of therapy management, diagnosis, investigation and documentation. Treatment errors in nursing activities, organization, diagnostic intervention and medical products represent less than ten percent of all confirmed cases of treatment is (10). However, this does not mean that errors within the organization process are less important. On the contrary, one must assume that errors in medicine are less due to the failure of individuals, as that resulting from the increasing complexity of patient care errors caused by the interaction of people. The blame is ultimately to look for when complex process. An open error culture is even more important to be able to ever to identify and resolve interface weaknesses in the system.

In Germany already drawing steps towards this new error culture from: The Critical Incident Reporting System (CIRS) Employees near misses and critical incidents to report anonymously on the Internet or intranet. An expert committee reviewed the incidents and suggests possible solutions. The fact that the incidents and the possible solutions can be viewed by other health professionals, everyone can learn from these mistakes. This system supports a positive culture of errors and is therefore an important contribution to avoid treatment failure. DAOs could actively support this process, so that even in the hospital internally to deal openly with errors is possible and fear for their reputation doctors less.

Respect for

An open approach to mistakes also represents a step forward for doctor and patient. Both can also search for an error honest with each other when the relationship of trust is shaken. A restoration of trust requires education and listening. Listening to the patient or his family, makes a significant contribution to ensuring that feels valued and respected in his person this. To lead these discussions, is not easy. You can patients disappoint hard if they do not reach their needs (11). In addition, conflicts meant a huge emotional burden on the health care team and should not be performed without prior communication training (12).

However, DAOs offer a great opportunity: The doctor can express his true regret and apologize without having to fear for its reputation or financial consequences, because the hospital takes over the compensation. The patient receives a response, may represent his perspective and maybe even forgive the doctor. In German hospitals where a complaints body is implemented, the experience already shows that patients often refrain from taking action when their case is heard and apologized the respective clinic. If the patient also still recognizes the perspective of the doctor or the clinic, he can possibly understand why it has come to a treatment error.

The current patient rights law makes an important step toward transparency and information for patients (13). It is based, however, on a clear legal world picture in which a doctor, hospital and patient have rights which they can, if necessary, to enforce against each other to come to a (legal) fair solution. This approach of legal rights is diametrically opposed to the trust and care which form the principle every doctor-patient relationship. U.S. developments show that care, openness and trust may be the guiding principles in a doctor-patient relationship, even if something went wrong. Immediate clarification of the treatment error (Disclosure) in conjunction with an apology (Apology) and a compensation offer (Offer) offer patients the possibility of a common approach for dealing with medical errors, receiving the doctor-patient relationship of trust and dignity of all parties involved .

The difference between mediation and arbitration are the structure and location of the interview. The DAO takes place directly at the scene instead, and the incident is not delegated to a third

person. This has the advantage that the basic need of doctor and patient - an honest and trusting relationship with each other - is met.

The Patients' Rights Act, the Coalition for Patient Safety, CIRS, the advisory committees and arbitration boards the Provincial Chambers of Physicians (14), and the complaint and mediation bodies in hospitals are all part of a development towards a more open and dignified handling of medical errors. A DAO pilot in Germany would be the next logical step to further improve the handling of medical errors, and possibly even reduce costs through actions for damages.

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