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Review Article

Words that wound or heal: Ethical and medico-legal dilemmas of breaking bad news in clinical care

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Abstract

Breaking bad news (BBN) is an essential yet challenging part of clinical practice, particularly in adverse scenarios where communicating the bad news may have adverse effects on the patient, their loved ones, health professionals and the hospital setup. It requires sensitivity, empathy, and ethical clarity, along with a complex medicolegal terrain. Whether it is conveying a diagnosis of terminal illness, failure of treatment given, or the unexpected complications of any procedures or medicine, the healthcare professionals must balance honesty, compassion and transparency with patient autonomy. This article reviews the ethical frameworks, legal considerations, and communication strategies associated with BBN in hospital settings, drawing on both global practices and the specific context of Indian medico-legal obligations.

Keywords: Bad news, Healthcare, Ethics, Autonomy, Medico-legal

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1. Introduction

The goal of a healthcare professional is not confined only to curing disease; rather, it is equally focused on humane communication, particularly when the news is distressing to the patient and their loved ones. Breaking bad news (BBN) is a common reality in the practice of medical professionals and is one of the most challenging and emotionally taxing responsibilities.[1] The hospital environment further adds pressure in the form of time constraints, family dynamics, and institutional policies influencing what, how much, and when the news is to be delivered.[2-3] Despite the numerous improvements in medical technology and training, many clinicians still feel underprepared for BBN, often due to a lack of formal training on such topics and their valid concerns over litigation or ethical missteps. BBN can be stressful when the clinician is inexperienced, the patient is young, or there are limited options for successful treatment.[4-5] This review article focused on providing a comprehensive understanding of how to approach BBN in hospital settings, emphasising ethical considerations such as autonomy, beneficence, non-maleficence and justice, while also debating medico-legal aspects like informed consent, documentation, and the risk of litigation.

2. Defining Bad News

Bad news in the context of a hospital setting is defined as "any information which adversely and seriously affects an individual's view of his or her future".[6] Examples include:

1. Diagnosis of terminal illness
2. Loss of major function of any body part
3. Failure of the treatment given
4. Any unexpected complication of the procedure or medicine
5. Diagnosis of a congenital anomaly in a foetus
6. Sudden death or fatal prognosis of a loved one

The perception of "bad" is subjective, hence it varies from patient to patient - what may be a manageable condition to one could be devastating to another. Therefore, clinicians must adopt a patient-centred or client-centred approach.[7]

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3. Ethical Framework for Breaking Bad News

Medical ethics is the foundation of BBN, and it consists of autonomy, beneficence, non-maleficence, and justice, which provide guidance.

3.1 Respect for autonomy

Patients have the full right to know the truth about their condition to make their decisions independently. Concealing any part of information, even with good intent, violates the principle of autonomy unless overtly requested by the patient. However, cultural circumstances like those in India often include family dominance, where relatives request to withhold the partial truth, especially the information that can lead to distressing their loved ones and loss of hope for life. Piloting such requests demands ethical sensitivity and clarity.[8]

3.2. Beneficence and non-maleficence

The obligation to "do good" must be balanced with "do no harm." The truth-telling is essential, but it should not be delivered harshly or bluntly that traumatises the patient. Timing, tone, and emotional support can lessen the psychological harm of bad news.[9]

3.3. Justice

Every patient deserves to receive information justifiably, regardless of profession, literacy, socioeconomic status, or cultural background. Ensuring all patients receive clear and understandable explanations honours this ethical principle.[8]

4. Medicolegal Attentions for Breaking Bad News

4.1. Informed consent and disclosure

Indian laws progressively favour patient autonomy, mirroring the global trends as prevalent in developed countries. Under the doctrine of informed consent and full disclosure, patients have the legal right to be informed about:

1. Nature of their condition
2. Risks and benefits of treatment
3. Alternatives, including no treatment

Concealment of critical information can be seen as medical negligence or deficiency in service, as per the Indian Consumer Protection Act, 2019.[10]

4.2. Right to know vs. therapeutic privilege

Indian courts recognise a doctor's right to withhold part of information from their patient under "therapeutic privilege," but only in rare cases where disclosure would cause serious psychological harm or if the patient loses the complete hope of life after knowing the complete truth about the illness. However, blanket non-disclosure is discouraged and may be seen as paternalistic.[11]

4.3 Documentation

Accurate and timely documentation is crucial:

1. Record the details of BBN, including date, time, and persons present
2. Note the patient's response and understanding
3. Document consent for further treatment plans

This serves both as a clinical reference and a legal safeguard in the future against litigation against healthcare professionals.[5]

4.4 Communication while declaring death

When communicating a death, especially unexpected or in ICU settings:

1. Use clear terms – avoid euphemisms
2. Provide a factual explanation without medical jargon
3. Offer time for emotional reaction
4. Document time of death, cause, family meeting, and steps taken

Failure to communicate properly has led to several incidents of violence and legal claims against hospitals and staff.[5]

5. Effective Communication Models for BBN

Various structured protocols exist to aid healthcare professionals in delivering bad news empathetically, and the most acceptable ones are the SPIKES protocol and the BREAKS protocol.[4,5,12]

5.1. SPIKES protocol[4]

It is the most widely used framework, consisting of the following 6 steps.

1. **S – Setting up the interview**: Ensure privacy, no interruptions, sit down, involve significant others (if the patient wants that), make a connection and establish rapport with the patient and take adequate time without interruption.
2. **P – Perception (Assessing the patient's perception)**: Ask the patient open-ended questions to assess and determine what the patient already knows about his condition or what he suspects, listen to their level of comprehension, accept denial, but do not confront at this stage.
3. **I – Invitation (Invitation from the patient to give information)**: Determine how much the patient wants to know about his diagnosis and prognosis, and/or treatment.
4. **K – Knowledge (Give knowledge and information to the patient)**: It would be beneficial to use phrases such as "I am sorry to that you that ……" or "Unfortunately, I have some bad news to tell you". Try to avoid medical terms which the patient can't understand, like the use of the word "spread of cancer" in case of "metastasis". Share the information gradually, in plain and simple language, shorter sentences, avoiding jargon. Give the positive aspects

first, give information in small chunks after considering their educational level, socio-economic background and current emotional state. Give facts accurately about treatment options, prognosis and cost.

5. **E – Emotions (Addressing the patient's emotions with empathic responses)**: Identify emotions expressed by the patient (sadness, silence, shock, etc). Try to use the phrase "I can imagine how scary this must be for you" to empathise with the patient.
6. **S – Strategy and Summary**: Close the interview after presenting the treatment or palliative care options. Ask whether the patient wants further clarification on any doubts. Providing a clear strategy will lessen the patient's anxiety and uncertainty. Offer and agenda for the next meeting and pro hope.[4]

5.2. BREAKS protocol[12]

1. **B – Background**: Know the full history of the patient and their illness before the meeting. Be prepared for all the questions that may be anticipated from the patient or relative, because today's era is one of electronic media, where the solution to any problem can be found on Google, though the authenticity is questionable. Therefore, it is recommended to be prepared for every possible question from the patient party.
2. **R – Rapport**: Establish a connection with the patient/family as it will lessen their stress, and moreover, the healthcare provider will be more comfortable in explaining things to the patient, but remember to be professional and do not develop a patronising attitude.
3. **E – Explore**: Ask about the patient's understanding and explore the understanding of patients to their illness. Some patients might already know about their deteriorating condition; in this case, the physician's role would be to confirm the bad news rather than breaking it.
4. **A – Announce**: Break the news gradually and clearly. Don't explode a bomb, rather make it simple, clear, gradual and in a professional manner. It would be preferable to announce the bad news after getting consent.
5. **K – Kindling**: Respond to emotions. Every individual responds to problems differently, so it is better to respond to their emotions with empathy.
6. **S – Summarise**: Outline future options.

5.3. ABCDE Model[13]

1. A – Advance preparation
2. B – Build a therapeutic environment/ relationship
3. C – Communicate well
4. D – Deal with the patient and family reactions
5. E – Encourage and validate emotions, evaluate the news

These protocols, if followed properly, not only improve the clarity but also minimise the likelihood of miscommunication and complaints.

6. Common Challenges in Breaking Bad News

1. Time constraints in busy hospitals
2. Lack of private spaces
3. Cultural and religious factors
4. Emotional burden on the clinician
5. Fear of litigation or assault
6. Language barriers
7. Family dominance over patient autonomy

These challenges demand institutional support, formal communication training of healthcare professionals, and guidelines tailored to the local socio-cultural context.

7. Strategic Approaches to Address the Challenges in Breaking Bad News

7.1. Training for healthcare providers

Given the high-stakes nature of BBN, formal training is vital and can be achieved by:

1. Simulation-based modules
2. Role-playing exercises
3. Workshops with feedback
4. Interdisciplinary team discussions

The medical curriculum must integrate communication ethics and medicolegal frameworks into undergraduate and postgraduate training. Now, the National Medical Council has introduced the AETCOM (Attitude, Ethics and Communication) module, making it mandatory to be taught throughout the medical curriculum.[14]

7.2. Family dynamics and cultural sensitivity

In the Indian scenario, the family members often take precedence in receiving bad news. However, over-reliance on family members or relatives to shield patients may violate ethical norms. Clinicians must:

1. Confirm patient preference regarding information disclosure
2. Involve families only with patient consent
3. Avoid coercive or non-consensual decisions

Respecting cultural values without undermining patient rights is a delicate but necessary balance, and all healthcare workers must be responsible for making this balance.[15]

7.3. Palliative and end-of-life contexts

In terminal care:

1. Focus shifts from cure to comfort
2. BBN should address prognosis, likely outcomes, and palliative options
3. Honest discussions about Do Not Resuscitate (DNR) and Advance Directives are essential

India's recent endorsement of advance medical directives in end-of-life care (Common Cause v. Union of India, 2018) makes
it imperative to include legal clarity in such discussions.

7.4. Preventing medicolegal disputes through better BBN

Effective BBN can minimise the dissatisfaction, mistrust, and lawsuits. Strategies include:

1. Clear and compassionate language
2. Avoiding false hope or denial
3. Providing follow-up and psychological support
4. Offering second opinions or referrals where appropriate

Hospitals must empower clinicians with Standard Operating Procedures (SOPs), training, and counselling support.

8. Conclusion

Breaking the bad news is not just a communication challenge; rather, it is also a serious responsibility that involves ethical values, emotional awareness, and legal duties. In hospitals, where patients and their families are already under stress and have high hopes, doctors must communicate adverse news with kindness, honesty, and clear understanding. It is important for healthcare workers to focus on the needs and feelings of the patient, to act in an ethically correct way, and to follow the legal rules while giving such news. This approach helps in preventing confusion or conflict, protects the patient's self-respect, and builds a stronger, more trusting relationship between doctors and patients. As India continues to improve and modernise its healthcare system, it is very important to include proper training for doctors on how to deliver bad news. Legal guidelines should also be followed to ensure that medical care remains respectful, compassionate, and responsible.

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