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Article 4

The Healing Forces or Apology in Medical Practice and beyond

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THE HEALING FORCES OF APOLOGY IN MEDICAL PRACTICE AND BEYOND

*Aaron Lazare**

INTRODUCTION

This Article presents a behavioral analysis of the apology process and its recent application to medical practice, an area in which apologies are rapidly growing in importance. Beginning in the early 1990s, there was a surge of academic and public interest in apologies. That surge continues today. Sociologists,[1] social psychologists,[2] and other behaviorial scientists have contributed to the literature.[3] A burgeoning public interest in apologies, evidenced by the doubling of newspaper articles on this subject in the *New York Times* and the *Washington Post* from 1990 to 2002,[4] paralleled and perhaps stimulated this academic and professional interest.

The reasons offered for the growing importance of apologies both nationally and internationally are speculative. They include the example set by Pope John Paul II in his numerous apologies on behalf of the "children of the church" in anticipation of the Jubilee Year,[5] as well as redress through national apologies to various groups—including Japanese Americans interned during World War II;[6] Native Americans, whose land was confiscated and were otherwise mistreated;[7] African Americans, whose ancestors were victims of slavery; and par-

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1. *See, e.g.*, NICHOLAS TAVUCHIS, MEA CULPA: A SOCIOLOGY OF APOLOGY AND RECONCILIATION (1991).

2. *See, e.g.*, CROSS-CULTURAL PRAGMATICS: REQUESTS AND APOLOGIES (Shoshana Blum-Kulka et al. eds., 1989) [hereinafter CROSS-CULTURAL PRAGMATICS].

3. *See id.*

4. AARON LAZARE, ON APOLOGY 6 (2004).

5. *See* LUIGI ACCOTTOLI, WHEN A POPE ASKS FORGIVENESS: THE MEA CULPA'S OF JOHN PAUL II (Jordan Aumann trans., 1998).

6. *See* ELAZAR BAKAN, THE GUILT OF NATIONS: RESTITUTION AND NEGOTIATING HISTORICAL INJUSTICES 30 (2000).

7. *Remarks of Kevin Gover, Assistant Secretary-Indian Affairs: Address to Tribal Leaders* (Sept. 8, 2000), 39 J. AM. INDIAN EDUC. 4, 5–6 (Winter 2000).

ticular African Americans, who were victims of medical tests such as the "Tuskegee Experiment."[8] The world is becoming a "global village" in which, through instant communication in a world of more than seven billion people, there is greater answerability and less concealment of offenses among individuals, groups, and nations.[9]

The importance of the apologies of healthcare professionals—particularly physicians and hospital leaders through their risk management personnel—to their patients for medical errors became an important matter in medical education and practice around 2000. For decades, lawyers advised physicians and other healthcare professionals against apologizing to patients, because they believed that offering apologies, tantamount to admitting fault, would increase the frequency and amount of malpractice claims.[10] Today, many believe that such apologies are not only ethically correct but may even decrease such claims.[11]

There have been at least five converging forces leading to the current interest in medical error apology. First, the physician-patient relationship is more egalitarian than ever before. Patients are now apt to be informed consumers—due in part to the Internet and popular advertising—who feel that they have the right to negotiate their treatment and know when mistakes have been made. Second, the American medical community's knowledge about the frequency and seriousness of medical errors has been growing, and many believe that such knowledge and disclosure to patients will ultimately improve medical practice. Such disclosure is now required by the Joint Commission on Accreditation of Healthcare Organizations.[12] Third, once doctors disclose a serious medical error to a patient, it is only common wisdom for medical professionals to apologize for psychological and humanitarian reasons. Patients would inevitably perceive withholding

8. President Clinton's Apology for the Tuskegee Syphilis Study, 1 PUB. PAPERS 607 (May 16, 1997).

9. MARSHALL MCLUHAN & QUENTIN FIORE, THE MEDIUM IS THE MASSAGE 157 (1967).

10. *Medical Justice: Making the System Work Better for Patients and Doctors: Hearing Before the S. Comm. on Health, Educ., Labor & Pensions*, 109th Cong. 3 (2006) (statement of Richard C. Boothman, Chief Risk Officer, Univ. of Mich. Health System); Chantal Brazeau, *Disclosing the Truth About a Medical Error*, 60 AM. FAM. PHYSICIAN 1013, 1014 (1999); Thomas H. Gallagher et al., *Patients' and Physicians' Attitudes Regarding the Disclosure of Medical Errors*, 289 JAMA 1001, 1001 (2003); Lucian L. Leape, *Understanding the Power of Apology: How Saying "I'm Sorry" Helps Heal Patients and Caregivers*, 8(4) FOCUS ON PATIENT SAFETY 1, 2 (2005), http://www.npsf.org.

11. Steve S. Kraman & Ginny Hamm, *Risk Management: Extreme Honesty May Be the Best Policy*, 131 ANNALS INTERNAL MED. 963, 963–64 (1999).

12. JOINT COMM'N ON ACCREDITATION OF HEALTHCARE ORGS., HOSPITAL ACCREDITATION STANDARDS, 2007 Standard RI.1.2.2. (2007).

an apology in such circumstances as offensive, insensitive, and unprofessional. Fourth, physicians and other medical staff in several medical centers have successfully diminished the costs of malpractice suits by apologizing to patients for medical errors and, when appropriate, making out-of-court settlements.[13] Lastly, several states have passed or are considering legislation that would allow supportive, benevolent comments, as well as apologies, to be inadmissible in malpractice cases, thereby encouraging physicians to offer such comments and apologies.[14]

Several concerns arise regarding the efficacy and ethics of the "inadmissibility" legislation. First, how might patients feel when their physicians apologize to them and then acknowledge that the apologies are inadmissible in court? If one of the healing forces in an apology is the risk the offender takes, and the risk is then negated through inadmissibility legislation, the apology may be negated. In addition, if the patient's lawyer hears an inadmissible apology, she may simply ask the right questions in court to prove medical culpability. Finally, if patients believe that their physicians are being manipulative by using inadmissible apologies, they may take more aggressive stands toward the physician or hospital rather than feeling healed.[15]

My interest in the apology process, and its application to medical practice in particular, dates back to 1992. Before that time, my academic career as a physician and psychiatrist focused on physician-patient interactions, including the importance of understanding patients' requests for treatment, their perspectives on their illnesses, the process of negotiation between doctors and patients over diagnosis and treatment, and physicians' and patients' experiences of shame and humiliation in medical encounters. This area of study falls under the category of the social psychology of medicine. The study of apology naturally flows from the study of humiliation, because an apology, which commonly restores a person's dignity, is often the only remedy for humiliation.

My study of apology preceded the rapidly growing importance of apology on the national and world scene in 1993.[16] It was triggered by a betrayal of trust by two long-time professional colleagues who administratively reported to me. Several weeks after the event, I real-

13. Lee Taft, *Apology and Medical Mistake: Opportunity or Foil?*, 14 ANNALS HEALTH L. 55, 85–87 (2005).

14. Nat'l Conference of State Legislatures, Medical Malpractice Tort Reform (Feb. 8, 2007), http://www.ncsl.org/standcomm/sclaw/medmaloverview.htm.

15. *Id.*; *see also* Lee Taft, *Apology Subverted: The Commodification of Apology*, 109 YALE L.J. 1135, 1139–42 (2000).

16. *Who's Sorry Now?*, TIME, Sept. 13, 1993, at 17.

ized that, if they would apologize, I could put the whole matter to rest. Engaged by this observation, I read the relatively scant literature on the apology process and then created various opportunities for them to "spontaneously" apologize. They never apologized. By this time, however, I had become intellectually fascinated with the subject, an interest that was reinforced by the plethora of apologies in national magazines and newspapers. I wrote an article on apology in a popular magazine in 1995 and a book on apology in 2004.[17] The latter is a conceptual analysis of the apology process, based on my study of over two thousand apologies from newspapers, historical events, novels, and poetry, as well as apologies shared with me by friends, relatives, and audience participants.[18] During the past two years, as dean of a medical school, I turned my attention to apologies in medical settings, a subject of current interest to physicians and hospitals. Such apologies are indistinguishable in structure and function from other private and public apologies.

The diversity of audiences who sponsor lectures on apology has been of particular interest: medical schools, hospitals, hospice care organizations, law schools, the Office of the Massachusetts Attorney General, the Boston Police Academy, corporations, conflict resolution experts, various departments of undergraduate colleges, and houses of worship. Apologies are universal phenomena of universal interest. In fact, apologies have been used by preliterate societies in religious practices beginning more than two thousand years ago and in legal processes in which acknowledging the offense, expressing remorse, and making reparation can influence sentencing outcomes.[19]

Most of this Article's observations about the apology process are based on their "face validity," because the number of empirical studies of the apology process are limited. The small number of conceptual books on apology, for the most part, compliment what this Article says.[20] Empirical studies of the numerous dimensions of the apology process will provide important opportunities for future research.[21]

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17. Aaron Lazare, *Go Ahead Say You're Sorry*, PSYCHOL. TODAY, Jan.-Feb. 1995, at 40; *see also* LAZARE, *supra* note 4.

18. *See* LAZARE, *supra* note 4.

19. JAMES GEORGE FRAZIER, THE GOLDEN BOUGH: A STUDY IN MAGIC AND RELIGION 113, 523 (1922); THE TALMUD OF BABYLONIA: AN AMERICAN TRANSLATION: VOL. XXXIV: TRACTATE KERITOT 59 (Jacob Neusner trans., 1991).

20. *See, e.g.*, KEN BLANCHARD & MARGRET MCBRIDE, THE ONE MINUTE APOLOGY: A POWERFUL WAY TO MAKE THINGS BETTER (2003); GARY CHAPMAN & JENNIFER THOMAS, THE FIVE LANGUAGES OF APOLOGY: HOW TO EXPERIENCE HEALING IN ALL YOUR RELATIONSHIPS (2006); BEVERLY ENGEL, THE POWER OF APOLOGY: HEALING STEPS TO TRANSFORM ALL YOUR RELATIONSHIPS (2001).

21. *See* CROSS-CULTURAL PRAGMATICS, *supra* note 2.

II. THE MEANING AND APPLICATIONS OF "APOLOGY"

An apology, in its simplest terms, is an acknowledgement of responsibility for an offense coupled with an expression of remorse. An offense refers to a violation of a rule or ethical principal or a careless behavior that results in injury or discomfort—particularly hurt feelings, degradation, or humiliation to others. People generally do not expect apologies for so-called "trivial" or "honest" mistakes, such as misspellings or incorrect dates in newspapers. Such mistakes are usually noted as "corrections," not apologies. Similarly, a CEO who organizes a search for an important executive and finds a candidate who fails is not expected to apologize if she conducted the search meticulously. Such failures are referred to as honest mistakes. However, if the executive chose an obviously incompetent relative for the job based on a family obligation, she has committed an offense which calls for an apology. In medical practice, an offense is defined as a "physical or psychological harm caused by an individual or group that could or should have been avoided by ordinary standards of behavior. A failed medical procedure or action caused by a physician's poor judgment that would be so regarded by the medical community at large would be an offense."[22] Conversely, an unfortunate outcome, such as unsuccessful surgery or other medical treatment that is widely regarded as high-risk by the patient, physician, and medical community is not ordinarily regarded as an offense for which the physician should offer an apology.

People commonly use the phrase "I apologize" as part of apologies. These two words, without further elaboration, however, do not adequately express an effective apology. The recipient of "I apologize" and nothing more immediately wonders, "for what?"

People often overuse the word *apologize* for events that are not offenses. Examples include "we apologize for the inconvenience" when a hotel or other building is under construction, when a parking garage is filled, or when a museum requests that people refrain from bringing pets into the building. The word "regret" is more appropriate in such situations.

Keep in mind that "apology" has another meaning in addition to the common usage of acknowledging an offense and expressing remorse. This meaning derives from the Greek word "apologia," which means to justify, explain, defend, or excuse.[23] The president's "apolo-

22. Aaron Lazare, *Apology in Medical Practice: An Emerging Clinical Skill*, 296 JAMA 1401, 1401 (2006).

23. THE OXFORD ENGLISH DICTIONARY 553–54 (2d ed. 1989).

gist," for example, is someone who explains or justifies the president's point of view rather than accepting blame and expressing remorse. A hospital's apologist may explain the high mortality rate of a particular surgical procedure on the basis of the admission of high-risk patients who are prone to serious complications.

The expression "I am sorry," by itself, is an expression of regret or compassion, not an apology. For example, "I am so sorry for your loss" or "I am so sorry for the painful postoperative course you are experiencing" merely express regret. "Sorry" is part of an apology when it is accompanied by an acknowledgement of an offense, such as "I am so sorry for the distress that my error has caused you."

III. The Structure, Dimensions, and Healing Functions of Apologies

Apologies may be usefully organized into three constituent parts or *structures*: (1) acknowledging the offense; (2) expressing remorse; and (3) making reparation when appropriate. Additionally, there are several aspects or *dimensions* of apologies that are in play throughout the apology process: (1) who offers and who receives the apology; (2) the appropriate timing of the apology; (3) a meaningful dialogue between the parties involved; (4) an expression of caring for the offended party; and (5) the restoration of the offended party's dignity and self-respect. The interplay of the three structures of apology with the five dimensions explains how apologies heal. The end of this Part summarizes the various healing functions of apologies.

Most people can assess whether an apology succeeds or fails by their visceral, "gut" reactions. With successful apologies, we feel healed; our emotional distress has been ameliorated. With failed apologies, we often feel that we are being "conned," further humiliated, or more distressed than before the so-called apology was offered. Many apologies that appear in the national media are failed or counterfeit apologies, because their primary goal is often to avoid negative consequences rather than heal the offended parties.

A. The Structure of Apologies

1. Acknowledging the Offense

The most important part of any apology is proper acknowledgement of the offense. Part of such an acknowledgment is an explanation: "Why did this happen?" For most offenses, including those in medical settings, offended parties want—and even demand—explanations. They want to know whether the offense resulted from an hon-

est mistake, a predictable complication, an unexpected circumstance, or ineptitude. An explanation can mitigate the offense. For instance, having a flat tire or being in an automobile accident can mitigate the offense of arriving late for an appointment. Similarly, a faulty piece of equipment may mitigate an inaccurate laboratory result. Other explanations, however, can aggravate the offense, such as "I had to make a bank deposit in the middle of surgery" or "my mind was wandering." When there is not a satisfactory explanation, the offender's comment "there is no excuse for what happened" may preserve the dignity of both parties.

My wife and I had the unpleasant experience of waiting six hours for a house officer to administer pain medications to our twenty-eight-year-old daughter, who was suffering from terminal cancer. My wife and I were angry. The nursing staff was angry. When the house officer arrived, she immediately apologized and offered that there was "no excuse for such a delay." She was so dignified and caring while looking physically exhausted that I immediately realized that she had been up all night caring for other patients with acute problems. My wife and I believed that her listing specific explanations for the delay would have diminished the healing quality of her apology.

Accurate acknowledgment of the offense defines reality for the offended person. I call this healing function *validating the offense.* We see this dynamic in all walks of life: Armenians want validation or recognition that they were victims of the 1915 massacre at the hands of the Turks.[24] Jews are deeply offended when people deny their experience of the Holocaust.[25] African Americans want acknowledgment for their suffering under slavery, the subsequent racial discrimination they have endured, and their contributions to the growth of this nation.[26] The motivation for seeking such acknowledgment is more than financial reparation. Acknowledgement defines our identity, who we are as individuals, groups, or nations. Patients who experience serious medical mistakes want to know what happened for similar reasons—the mistake is part of who they are, part of their identity. It helps them formulate or reformulate their self-image and consider how they should manage their lifestyle in the future.

24. Statement by Concerned Scholars and Writers, http://www.armenian-genocide.org/Affirmation.22/current_category.3/affirmation_detail.html (last visited Jan. 23, 2008).

25. *See* DEBORAH E. LIPSTADT, DENYING THE HOLOCAUST: THE GROWING ASSAULT ON TRUTH AND MEMORY (1993).

26. This statement is derived from a conversation I had with a caller to a talk show broadcast on a local NPR affiliate in Wisconsin in 2006.

A second healing function of acknowledging the offense is the *designation of fault.* In all apologies, the offended party, including patients in a medical setting, want to know who was at fault for the mistake. Is there something they could have done or that the physician could have done differently? This knowledge is of particular importance when a child is harmed. The parents need to know who is responsible: the parents, the physician, or the nurse?

A third healing function of acknowledging the offense is the agreement by patient and healthcare provider on shared values; both parties agree upon the existence and nature of the offense. Such conflicts over shared values are apt to occur when the medical mistake is the result of a procedure that has a high incidence of complication. The family of the patient and the physician may disagree over whether an offense was committed.

2. *Common Failures in Acknowledging the Offense*

Offending parties in any situation—political, personal, or medical—have so much at risk when they honestly acknowledge an offense that they develop ways of only seeming to acknowledge the offense. This subsection offers eight types of seeming acknowledgments based on public apologies:

- The offended party uses vague or incomplete statements of the offense, such as "I apologize," "I apologize for whatever I did wrong," "I apologize that things did not work out," or "I apologize for the alleged offense." Without a more specific acknowledgement, the offended party is unsure that the offender knows what she did wrong and therefore perceives the apology as incomplete and even evasive. Examples of the use of vague statements to avoid acknowledging the offense include Governor Schwarzenegger's so-called apology for groping women[27] and football star Michael Vick's so-called apology for sponsoring dogfights and killing dogs.[28]
- The offending party uses the passive voice—"mistakes were made"—thereby not acknowledging the identity of the offender. Apologies by U.S. presidents, such those by Ulysses Grant, William J. Clinton, and George W. Bush, are examples of diminish-

27. *See* Rene Sanchez & William Booth, *From Schwarzenegger, an Apology: Candidate Says He is 'Deeply Sorry' for His Behavior Toward Women*, WASH. POST, Oct. 3, 2003, at A1.

28. *See Vick's Apologies Aren't Enough to Restore Reputation*, USA TODAY, Aug. 28, 2007, at A10.

ing acknowledgment in such a manner.[29] This technique is also widely used in medical reviews of incidents.[30]

- The offending party uses the empathic or compassionate "sorry" without acknowledging responsibility. For instance, the party may say "I am so sorry that things did not work out" or "I am sorry for your pain."
- The offending party makes the offense conditional by using "if," "but," or "may have." For example, "I am sorry if this turns out to be serious," "I apologize if I did anything wrong," "I apologize if it turns out it was my fault," "I apologize for any comments that may have been negative," "to the degree you were hurt," "I apologize for the alleged offenses," or "I apologize if my comments upset you." The latter comment does more than make the admission conditional; it suggests that the offended party may be the problem by being overly sensitive.
- The offending party minimizes the offense with statements such as "I apologize for my actions, but the damage is minimal; only one person was killed in the crash," or "I apologize for the surgical damage to your arm, but you can get along with 90% efficiency."
- The offending party apologizes to the wrong person, such as a family member, a friend of the patient, or the patient's lawyer. In professional boxing, Mike Tyson apologized to the Commissioner of Boxing for biting off part of opponent Evander Holyfield's ear, while mocking Holyfield.[31]
- The offending party apologizes for a lesser offense, not the offense the patient is upset about. For example, the patient may be most troubled by scarring while the physician apologizes for the pain.
- The offending party blames the victim, such as by saying, "I apologize for my mistake, but you were being careless about your diet."

It is remarkable how creative we can be to avoid acknowledging offenses we have committed.

3. *Expressing Remorse*

Various expressions of remorse are necessary for any effective apology. Remorse is communicated by sincere and intense expressions of regret, including shame, humility, and forbearance—promises to re-

29. CAROL TAVRIS & ELLIOT ARONSON, MISTAKES WERE MADE (BUT NOT BY *ME*): WHY WE JUSTIFY FOOLISH BELIEFS, BAD DECISIONS, AND HURTFUL ACTS 235–36 (2007); *see* John M. Broder, *Familiar Fallback for Officials: 'Mistakes Were Made,'* N.Y.TIMES, Mar. 14, 2007, at A18; Ulysses S. Grant, President of the United States, Eighth Annual Message to Congress (Dec. 5, 1876), *available at* http://www.infoplease.com/t/hist/state-of-the-union/88.html.

30. In attending medical rounds, I have noted that physicians and physicians-in-training present medical mistakes using the passive voice.

31. Ron Borges, *Tyson Apologizes for Biting, Asks for Chance to Box Again*, BOSTON GLOBE, July 1, 1997, at A1.

frain from committing the offense in the future. A lack of remorse, shamelessness, arrogance, or a refusal to refrain from repeating the offense on the part of a public figure or criminal commonly makes the headlines, because it stuns the public. For example, Timothy McVeigh, who bombed a federal building in Oklahoma, killing 168 people, including children in daycare, referred to the slaughter as "collateral damage."[32] The apology of a distinguished author who lied to his students about some of his life experiences included the phrase, "these things happen to the best of people."[33] This explanation lacked humility, an important part of remorse. In many apologies, offended parties need to see the offenders undergo suffering equal to the suffering of the offended. This is also a form of remorse. Suffering may be induced by the offended party withholding any kind words for undue periods of time, bringing in a lawyer, making various threats, or demanding the firing of medical personnel. The healing forces in the expression of remorse are the suffering of the offender and a promise for the future.

4. Making Reparation

Reparation or repair for damages may fully restore a relationship when it restores material damage. For example, a new camera can replace a borrowed, damaged camera or a new dress can replace one stained with a carelessly spilled glass of wine. Sometimes, the reparation is a substitute for what was lost, such as a free dinner at a restaurant that kept the party waiting for an excessive period of time. Repairing self-esteem resulting from a public humiliation may require a public apology, and that may not be enough. In medical situations, reparation for medical mistakes resulting in physical and psychological damage becomes more complicated and often requires financial payments determined by mediators or courts.[34] At least one hospital makes reparation for minor offenses—such as scheduling difficulties or long waits—with free lunch or parking.[35] Part of the reparation to patients may also be a change in medical procedures that the offended parties will experience with ownership, pride, and restoration of power. In this situation, the reparation a patient expects and demands often depends on her relationship with the caregiver and the hospital.

32. Jules Crittenden, *'I am Sorry'—McVeigh Offers Some Remorse for Loss of Life—Calls Bombing 'Legit Tactic' in War vs. U.S. Government*, BOSTON HERALD, June 10, 2001, at 1.

33. Patrick Healy & Walter V. Robinson, *Professor Apologizes for Fabrications*, BOSTON GLOBE, June 19, 2001, at A1.

34. David M. Studdert et al., *Medical Malpractice*, 350 NEW ENG. J. MED. 283 (2004).

35. I was presented with preprinted vouchers by hospital staff at Newton Wellesley Hospital on more than one occasion.

B. General Dimensions of Apologies

1. Who Offers and Who Receives the Apologies

In each apology, it is important to determine who should offer the apology and to whom it should be directed. The most straightforward and common situation is an apology from person to person, offender to offended. A responsible adult may need to stand in for an offender or offended who is a child. A public apology, involving organizations or nations, often involves a complex process to decide who has the standing to represent the offender or the offended. In medical situations, it may be difficult to determine who will offer and who will receive the apology. The designated offender may be the physician in charge, the house officer, the medical student, the nurse, the department chair, the designated hospital executive, or a combination of the above. The offended party may be the patient or her family. The patient's medical condition, including her mental state, may determine these choices.

2. The Appropriate Timing of the Apology

It is generally useful to apologize to the offended party as soon as the offense is discovered and understood. Apologizing before the offended party has the opportunity to assimilate the nature and significance of the offense will result in an incomplete apology. How can I respond to your apology when I do not know the offense you committed? In medical practice, when the physician realizes that there is something wrong, but the specific problem is still unclear, the physician should inform the patient of the concern but tell her that more tests need to be done or that more time is needed to offer a complete disclosure.

Although apologies are best offered in a timely manner, apologies that are delayed by months, years, decades, and even centuries can be effective in healing relationships. There are numerous examples of such delayed apologies at personal, national, and international levels.[36] In medical practice, it is wise for the physician to set a second meeting after the patient has the opportunity to reflect upon and assimilate the offense and to think of questions to ask and emotions to express. This same process applies to apologies outside of the medical setting.

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36. *See, e.g.*, LAZARE, *supra* note 4, at 2–4, 51–52, 80–82.

3. Having an Effective Dialogue Between the Parties Involved

An apology is ineffective when the person apologizing does all of the talking while the offended party listens. How does the offender know that the offended party fully understands the nature of the offense? For instance, when the offender simply says, "I want to apologize for what I did," the victim is certain to have many unanswered questions. The victim may ask: "Why did this happen? What is the full extent of what you did? Do you know how much you hurt me? Do you know the possible impact of that mistake on my future life? Are you suffering the least bit? Do you know how angry, sad, or frightened I am? Who is going to tell my spouse?" In medical practice, physicians sometimes rapidly state their apologies and then hurriedly leave the bedside to avoid hearing the patient's questions and feelings. Without the offended party listening to these questions and bearing the patient's negative feelings, the apology is unlikely to succeed.

The dialogue between offender and offended may be characterized as a negotiation. The two parties negotiate who should be present, the timing of the apology, the details of the offense, the number of discussions necessary to achieve a sense of satisfaction, the degree of offender suffering, the various unspoken needs of the offended party, the acceptable reparation, and many other aspects of the interchange. By viewing the exchange as a negotiation between two parties, it is easy to understand the uniqueness of each apology.

4. Expressing Care for the Offended Party

Many people who are asked how apologies heal will respond as follows: "It showed that the other person cared about me." This need for caring is important, because the offense is often perceived as an act of insensitivity, an act of betrayal, and an act bereft of caring. An honest and complete apology requires that the offender demonstrate courage, generosity, and caring. Another aspect of the apology that can be considered as caring is the risk the physician takes in acknowledging her mistake.

5. Restoring the Self-Respect and Dignity of the Offended Party

Many offenses cause the offended party to feel hurt, degraded, and humiliated. Therefore, the tone of the apology must be one of respect and humility. The offender blaming the victim, withholding information, justifying her behavior, or making self-congratulatory comments—such as "these things happen to the best of people" or "what a

wonderful person or physician I am"—will undermine an otherwise effective apology.

C. *A Summary of the Healing Functions of Apologies*

The healing functions that emerge from the interplay of the three-part structure and the general dimensions of apologies I have described include the following:

- Feeling cared for;
- Restoration of self-respect and dignity;
- Restoration of power;
- Validation that the offense occurred;
- Designation of fault;
- Assurance of shared values;
- Suffering in the offender;
- A promise for the future;
- The offender accepts risks by apologizing;
- Reparation; and
- The opportunity to enter into a dialogue or negotiation with the offender who can then verbalize her feelings and concerns.

It is unusual for all of these healing forces to be present in every apology. In fact, there are many apologies in which the offender wants, needs, and is satisfied with only one of these healing forces. For example, an offended party might say or think one or more of the following: "I just want to know that you care about me"; "I just want to know that it was not my fault"; "I just want to know that you will pay for the damages"; "Just promise me it will not happen again"; "I just need to know that you realize that what you did was wrong"; "I need you to know (or admit) that this really happened"; "I want you to know how I feel about what you did"; or "I want you to know how much I have suffered." In most effective apologies, several healing functions must be met, just as some medical conditions—such as sustained high blood pressure—may require several antihypertensive medications for the best results.[37] As soon as these varied needs are met, the offended party is likely to spontaneously forgive the offender.

It is admittedly difficult to understand each and every need of an offended party. When all else fails, a useful method for achieving repair might be for the offender to approach the offended party, admit the failure, and ask for help: "I feel badly over what happened and sense that my apology has not helped things. What have I failed to address? What am I missing? I would like to talk further with you."

37. Marius M. Hoeper, *Combination Pharmacotherapy for Pulmonary Arterial Hypertension*, *in* HARRISON'S PRINCIPLES OF INTERNAL MEDICINE pt. 8, § 3, ch. 220 (16th ed. 2007).

Sometimes the offended party, unfortunately, wants to end the relationship or harbor a grudge, which, for some people, is a source of power.

The list and descriptions of the ways apologies heal, undoubtedly, will evolve with further study. The concept of healing functions will prove useful in delivering and evaluating apologies in medical practice and elsewhere.

IV. Apologies for Offenses Other Than Medical Errors

In the medical setting, where there is so much at stake—such as the patient's functioning and survival—time is precious, there is a complex and overlapping hierarchy of professional roles and responsibilities, students at various levels of training are involved, and some patients are extraordinarily demanding. Thus, interpersonal offenses are prevalent. There is a long history of physicians humiliating nurses, medical students, and house officers. Without modifying such behaviors and making apologies when appropriate, many of these groups simply pass on such abusive behavior to subsequent generations of physicians and nurses.

Patients are often the objects of insults and humiliations. Offenses include excessive waiting times, delay or confusion in prescriptions being filled, unnecessary physical exposure, failure to have medical records kept private, and failure to communicate medical plans to other physicians. I conducted an informal, two-month study of patients who presented complaints to a hospital office designed to understand and respond to such complaints.[38] In a series of interviews, patients were asked to describe the problem that brought them to the office. After hearing their stories, the patients were asked, "how did that make you feel?"[39] All responses—approximately one hundred, excluding complaints about the billing system—were statements of feeling denigrated or humiliated, "like a non-person," "like a dog," "like a welfare patient," "like I was invisible," "like I did not matter."[40] All of these statements expressed variations on feelings of humiliation. Appropriate apologies for these offenses communicate to patients that they matter as human beings and that preserving their dignity is as important as performing a complex medical or surgical procedure.

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38. These responses were derived from my unpublished study, *Shame and Humiliation in the Medical Encounter* (1988) (on file with author).

39. *Id.*

40. *Id.*

V. CONCLUSION

Medical professionals who commit offenses, medical mistakes, or interpersonal improprieties often face significant internal conflicts. They want to do the right thing, admitting blame and expressing remorse (apologizing), hoping to relieve their guilt and shame (clearing their conscience), meeting the patient's psychological needs for healing, making reparation, and being forgiven. Such apologies commonly strengthen relationships. The offended party usually regards such acknowledgments as signs of honesty, caring, compassion, and humility. However, there are risks to apologizing. Medical professionals fear that admission of fault and apology will be perceived as signs of weakness and expose them to humiliation and punishment, such as malpractice suits and formal complaints to hospital administration and the Board of Registration.[41]

Because apology is a relatively new phenomenon in medical practice, it is useful to consider the historical context of apology to understand its fundamental importance and growing significance in all human interactions. Apologetic behaviors have been traced to various primates[42] and preliterate humans.[43] In the world's great religions, repentance (turning away from evil to good), which includes the apology process, dates back more than 2,000 years.[44] The use of apology to reconcile appears in literature as early as Homer's Iliad (Agamemnon apologizing to Achilles), which was written in approximately 800 B.C.E.[45] Finally, important aspects of the legal and judicial systems over the centuries have included the apology process, in which acknowledging the offense, expressing remorse, and offering reparation often influence the outcome. I believe we will see the fruits of apologetic behavior in the physician-patient relationship in the decades to come.

41. Rachel Zimmerman, *Doctors' New Tool to Fight Lawsuits: Saying 'I'm Sorry,'* WALL ST. J., May 18, 2004, at A1.

42. *See* FRANS DE WAAL, *Ignorance About Human Reconciliation*, *in* PEACE MAKING AMONG PRIMATES (1999).

43. *See* FRAZIER, *supra* note 19.

44. *See* REPENTENCE: A COMPARATIVE PERSPECTIVE (Amitai Etzioni & David E. Carney eds., 1997).

45. HOMER, THE ILIAD (Robert Fagles trans., Viking Press 1990).