

# Ethical Negotiating Techniques for a Better Practice

You want something, or you want something done your way.

If the other person doesn't understand, has questions, disagrees about value, disagrees with your opinion, or doesn't want to "sell" to you or comply with your wishes, you either negotiate successfully or lose out.

- You negotiate all the time; with patients, staff, colleagues, vendors, family, etc.
- You don't always have adequate control to force your desires upon the other person
- There are many predictable behaviors in the negotiation process
- Your communication and negotiation skills are more important than your wants or desires in getting what you want

Physicians are often considered not to be good negotiators. They are frequently compliant, averse to confrontation, usually untrained in the art of negotiation, and give up the negotiation or their position, too easily. Many people in US western culture are not used to negotiating, are uncomfortable with the process, and reflexively dislike people who initiate negotiation with them. Think about your own stereotypes about tradesmen who are by training professional negotiators; car salespersons; rug-merchants; diamond merchants; antique dealers. Get the picture? Physicians often reject negotiation as an unsavory process because of their own negative experiences with the process and the stereotypical image of people who use/abuse the process.

Ethical negotiation means using the skills of professional persuasion to an appropriate end, including, for example:

- getting a reluctant patient to agree to a necessary, yet difficult, treatment protocol
- convincing a medical assistant to stay, even though she is mad at the receptionist again
- negotiating employment compensation with an employer or employee
- explaining to your teenager that the particular body-piercing they are contemplating is not in their long term interest

Becoming an adequate negotiator is a relatively simple educational process for a physician, but becoming a master negotiator is a life-long exercise yielding continuous benefits. Many books and training programs are available with a couple listed at the end of this article.

The following approach to ethical negotiating is simplistic, yet easy to remember and use by beginners under pressure. Its purpose is to make you think about strategy effectively during an actual negotiation, and is almost universally applicable.

## **The 3-Cs of "Negotiation Judo": Confirm, Clarify and Close**

Most Americans take a "John Wayne" type approach to confrontation or negotiation. When confronted by an adversary, both parties throw "punches" until one dominates. Basic physics tells us the least efficient way to handle a force is with an equal an opposite force. It is much more efficient to "manage" or "judo" the opponent and redirect their force to your advantage.

### **Confirm**

The first step is to get your opponent to reduce their guard by confirming that you clearly understand their position, and not make them more defensive by disagreeing with them. Use words like "I understand; Are you saying that...; I'm not sure I get it yet, could you rephrase it?" Listen carefully and make sure you really do understand their position and why they have it. Do not interrupt them. Wait at least 10 seconds after they are done talking to begin talking. Make sure they know you accurately understand their position.

### **Clarify**

Once you understand their position, you have the facts upon which to base your rebuttal. It's like knowing all the other players' cards in a poker game in advance. If possible, phrase your clarifying points as questions for them to deliberate and answer (not a yes or no answer), for example, to a patient: "What arrangements have you made for intensive home-care by your family members if your condition worsens significantly due to refusing treatment?", or "What have you thought about...", not "Have you thought about...". You want them to recognize issues from your perspective or points the other person has not considered, or to demonstrate your knowledgeable position, for example: "The low Blue Book value on that car is \$10,000 and the highest Blue Book is \$12,000, so why do you feel its worth \$13,000?"

### **Close**

To "close" means merely to ask for agreement. Without closure there is no agreement. I can't tell you how many meetings I have sat in on with physicians where no-one asks the other for final agreement. This is one of the reasons many committees are ineffective and many physicians are frustrated in their dealings with hospitals and other physicians. No one says "Let's go!". A basic strategy is to close early and close often. It doesn't have to be the final agreement, but might be a preliminary question that you know will be answered a certain way (called a preliminary-close, stepping-stone-close or tie-down), allowing your next question to ask for the final agreement, such as: "I'm sure you would prefer to avoid any unnecessary risk of serious disease for your child, right?" (you can expect they answer in the affirmative) then: "Since the risk of the vaccination is far, far less than the risk of the disease, let's go ahead and vaccinate little Joey".

There are literally hundreds of different types of closes, all of which are effective communication tools in appropriate situations. Most are significantly more effective when following Confirm and Clarify statements. Learning only a handful of ways to comfortably ask for agreement can greatly improve getting what you want.

You should also always know what are your best alternatives to a negotiated agreement (BATNA), because not every negotiation can be concluded unless you are losing some of them. Plan in advance when to walk away (for example, paying over \$12,000 for the car).

Lets run through a couple common scenarios.

**Patient unhappy with the bill:**

Patient: Doctor, this bill is too high!

Doctor: (confirm) You're right, medical care is getting awfully expensive, like so many other things. (confirm) Why do you feel that this particular bill is too high compared to others?

Patient: Well, I come here often, and compared to my other medical bills, this one is higher.

Doctor: (clarify) Well, it appears from the bill that it was a more complicated visit than usual and includes some lab tests that we did. (close) If I have my billing staff take a look at it and explain it to you, and if they find any errors we will correct them and let you know, would that be OK?

Patient: Yes, thank you doctor.

**Staff person wants a raise**

Staff: Doctor, I want a raise.

Doctor: (confirm) I understand. (confirm) Tell me, why do you feel a raise is appropriate at this time?

Staff: Well, I've been here for over a year and I've never had a review or a raise.

Doctor: (confirm) OK, I understand those considerations. (clarify) In this office, raises are primarily based on individual merit and productivity. (close) I suggest we set an appointment in one week to review your performance, at which you can present a report on how your productivity has improved and I can have a time to review community pay rates for medical assistants. (final close) How about Tuesday around 12:30?

Staff: OK

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**Resources**

**Book:** *Getting to Yes*, in any large bookstore, under \$10

**Audiotapes:** *The Secrets of Power Negotiating*, Nightengale Conant, 6 tape set, 1-800 323-5552, under \$60