

HEALTH LAW

Update

NEWS FOR THE CLIENTS AND FRIENDS OF BASS, BERRY & SIMS PLC

Disruptive Behavior Could Disrupt Your Joint Commission Accreditation

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On July 9, 2008, the Joint Commission issued a Sentinel Event Alert that increases the accountability of accredited facilities for disruptive conduct by their staffs. Effective January 1, 2009, all accreditation programs are subject to a revised leadership standard that addresses disruptive and inappropriate behavior. In addition to adopting clear standards to prevent such behavior, healthcare providers must also formulate a clear process for managing such incidents as they continue to occur.

A History of Problems

In the Joint Commission's view, verbal outbursts, physical threats, refusing to perform assigned tasks, and even condescending language can all undermine health team effectiveness and ultimately compromise patient safety. Citing medical errors, poor patient satisfaction, and increased costs, all of which the Joint Commission believes are preventable adverse outcomes, the Joint Commission's new Leadership and Medical Staff standards seek to ease the often stressful work environment common in today's healthcare setting.¹

The Joint Commission release notes a history of "tolerance and indifference" to intimidating and disruptive behavior that exists in the healthcare community.² Individual factors such as self-centeredness, immaturity, and defensiveness as well as institutional demands including productivity demands, cost containment requirements, embedded hierarchies, and litigation fears all contribute to the problem.³ A survey released by the Institute for Safe Medication Practices

¹ Joint Commission, *Sentinel Event Alert: Behaviors that Undermine a Culture of Safety*, Issue 40 (July 9, 2008).

² *Id.* (citing Porto, G & Lauve, R, Disruptive Clinical Behavior: A Persistent Threat to Patient Safety, *Patient Safety & Quality Healthcare*, July/August 2006 available at <http://www.psqh.com/julaug06/disruptive.html>).

³ *Sentinel Event Alert*, Issue 40.

found that "40 percent of clinicians have kept quiet or remained passive during patient care events rather than question a known intimidator."⁴

Intimidating behavior is not confined to the interaction between physicians and nurses, the most heavily researched relationship. Surveys report that poor behavior affects all members of the healthcare community including pharmacists, therapists, support staff, and even administrators. Disruptive or intimidating behaviors are also not limited to one gender nor are they entirely intradisciplinary, often occurring in exchanges between departments.⁵

Disruptive behavior that undermines the healthcare team is seldom reported. Stigma against "blowing the whistle" on a colleague, fear of retaliation, and a general reluctance to confront an intimidator all contribute to underreporting.⁶

Joint Commission Response

While several existing standards address the need for a safe work environment, the new standards solidify organizational requirements. Leadership standard LD.03.01.01 requires that, "Leaders create and maintain a culture of safety and quality throughout the [organization]." Two new Elements of Performance address disruptive and inappropriate behavior:

EP 4: The hospital/organization has a code of conduct that defines acceptable, disruptive, and inappropriate behaviors.

EP 5: Leaders create and implement a process for managing disruptive and inappropriate behaviors.

Standards in the Medical Staff chapter have also been organized along six core competencies to be addressed in the credentialing process, including interpersonal skills and professionalism.

Beyond the official accreditation standards, the Joint Commission release also offered certain suggested actions, including educating all team members, holding all team members accountable for modeling desirable behaviors, developing and implementing "zero tolerance" policies, protecting those who report or cooperate in the investigation of intimidating, disruptive and other unprofessional behavior, providing skills-based training and coaching for all leaders and managers in relationship-building and collaborative practice, and developing and implementing a reporting/surveillance system (possibly anonymous) for detecting unprofessional behavior.

Conclusion

Though these standards do not take effect until January 1, 2009, healthcare organizations should review existing protocols in light of the new Joint Commission requirements and suggestions. The full text of the *Sentinel Event Alert* is available at www.jointcommission.org. If you have

⁴ *Id.* (citing Institute for Safe Medication Practices: Survey on workplace intimidation. 2003. available at <https://ismp.org/Survey/surveyresults/Survey0311.asp>).

⁵ *Sentinel Event Alert*, Issue 40.

⁶ *Id.*

any questions about these new accreditation standards or other matters discussed in this *Health Law Update*, please do not hesitate to contact any of the attorneys in our Healthcare Industry Practice Group listed below.

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