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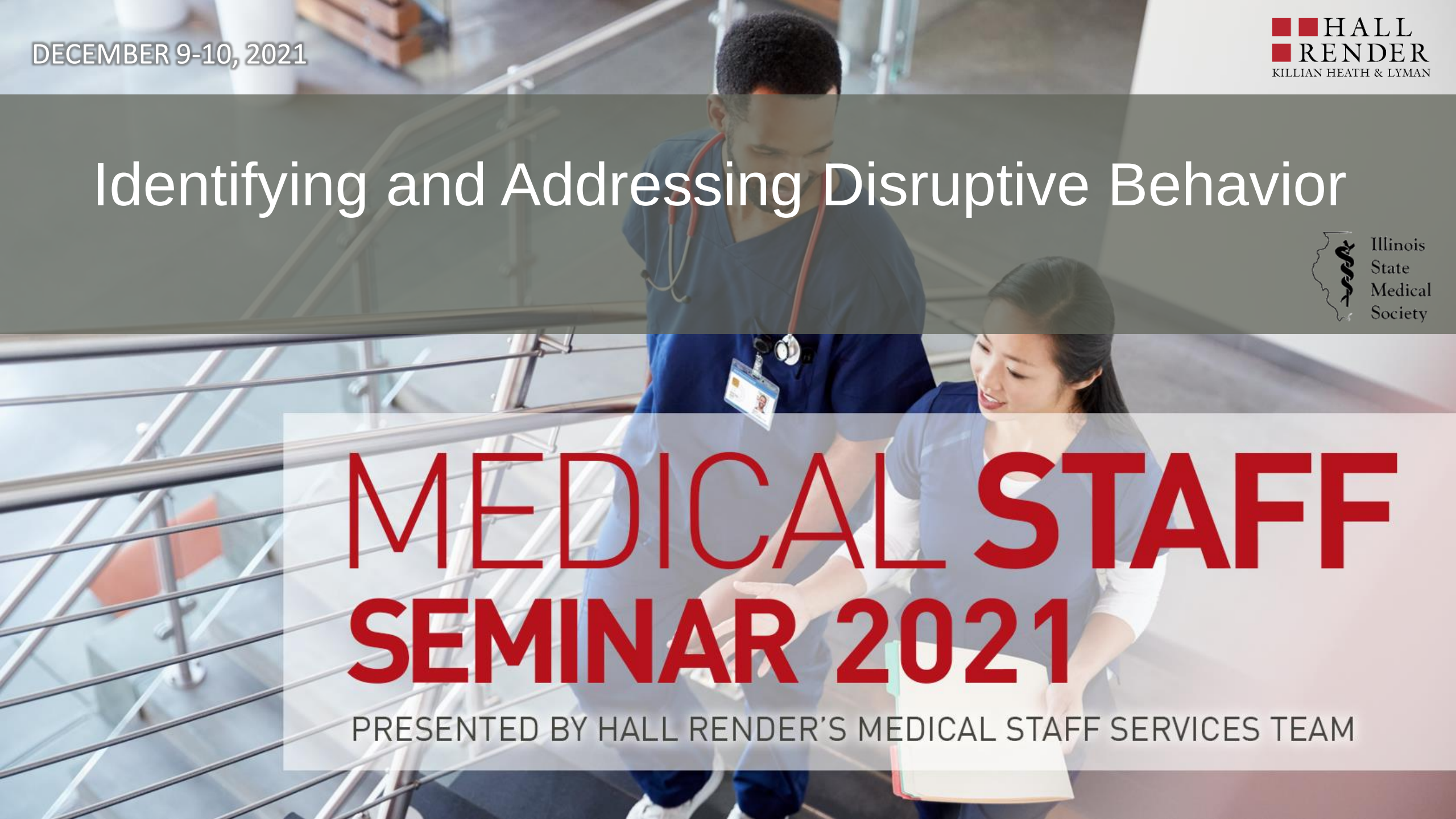
Identifying and Addressing Disruptive Behavior

Illinois State Medical Society



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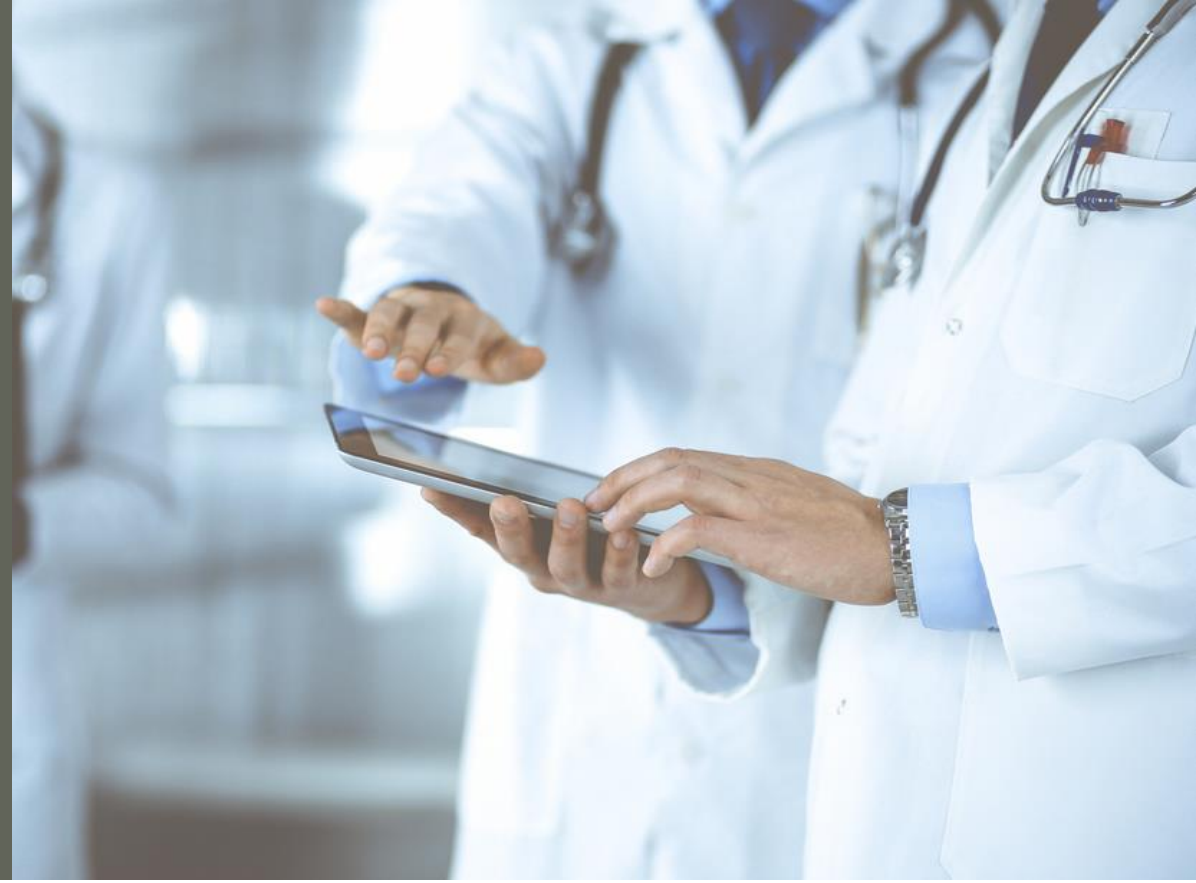

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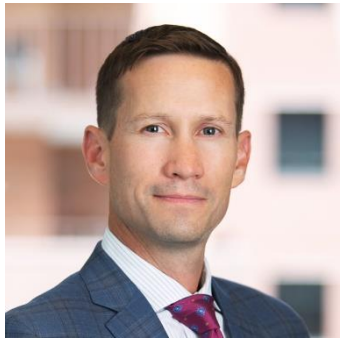

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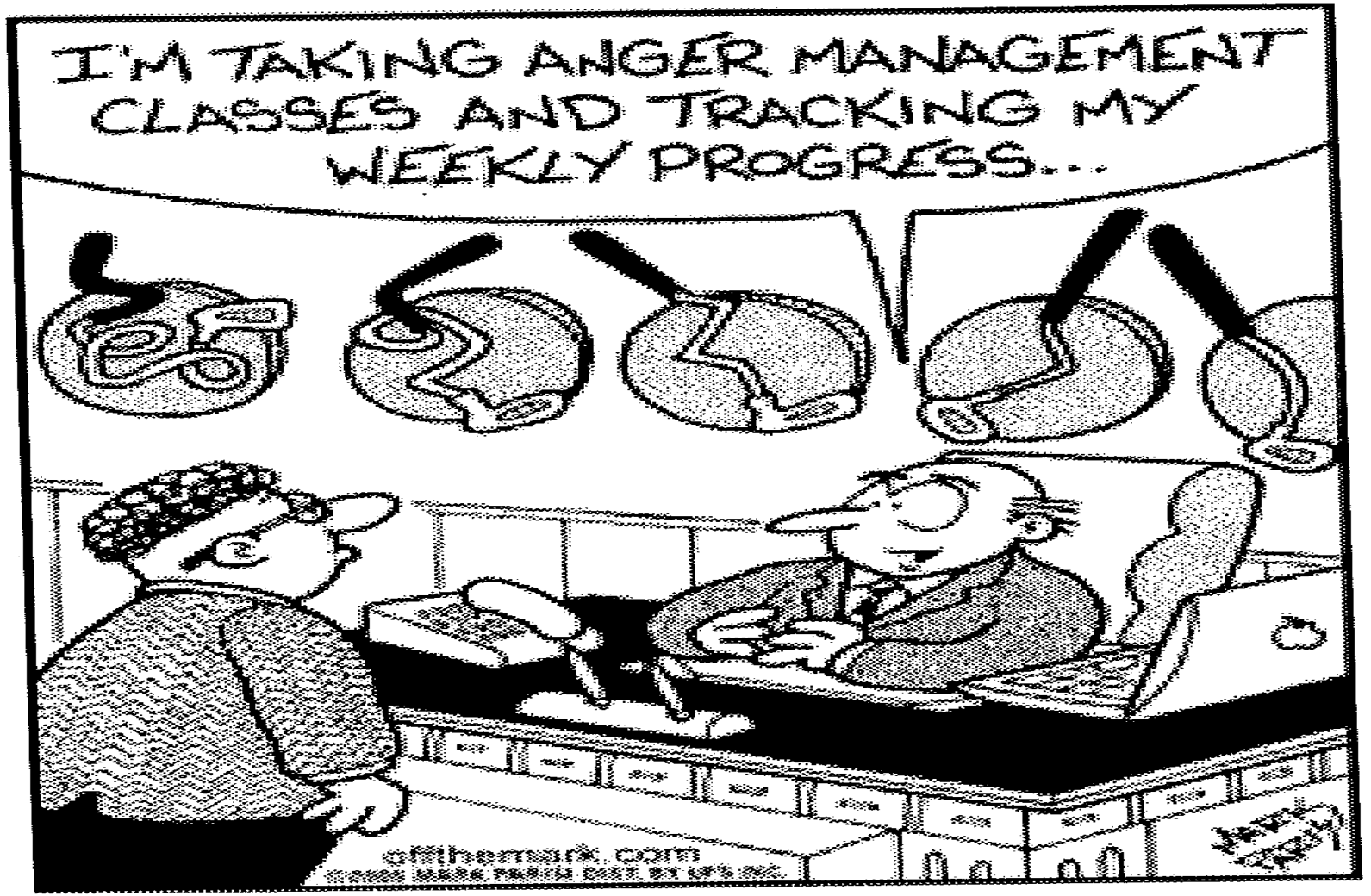
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Overview

- Addressing Disruptive Behavior Through Peer Review
- Defining Disruptive Behavior
  - The Data
- Drivers of Disruptive Behavior
- Risks of Disruptive Behavior
- Considerations for addressing Disruptive Behavior
  - General Considerations
  - Considerations for Corrective Action

Disruptive Behavior

Remember…matters involving "professional conduct" are subject to peer review processes.

The terms “peer review” and "professional review action‘’ include by definition all things **competency** and **professional conduct**.

What Is Disruptive Behavior?

American Medical Association

"The importance of respect among all health professionals as a means of ensuring good patient care is foundational to ethics. Physicians have a responsibility to address situations in which individual physicians behave disruptively, that is, speak or act in ways that may negatively affect patient care, including conduct that interferes with the individual's ability to work with other members of the health care team, or for others to work with the physician.

…

Physicians who have leadership roles in a health care institution must be sensitive to the unintended effects institutional structures, policies, and practices may have on patient care and professional staff."

- CME – 9.4.4

Disruptive Behavior

The Joint Commission

- Intimidating and disruptive behaviors include overt actions such as verbal outbursts and physical threats, as well as passive activities such as refusing to perform assigned tasks or quietly exhibiting uncooperative attitudes during routine activities
- Intimidating and disruptive behaviors are often manifested by health care professionals in positions of power
- Overt and passive behaviors undermine team effectiveness and can compromise the safety of patients
- All intimidating and disruptive behaviors are unprofessional and should not be tolerated

Disruptive Behavior

- It is well established that Disruptive Behavior impacts, or has the potential to impact, the quality of care
  - ❖Joint Commission: **Behaviors that undermine a culture of safety**:

    "Intimidating and disruptive behaviors can foster medical errors, contribute to poor patient satisfaction and to preventable adverse outcomes, increase the cost of care, and cause qualified clinicians, administrators and managers to seek new positions in more professional environments. Safety and quality of patient care is dependent on teamwork, communication, and a collaborative work environment. To assure quality and to promote a culture of safety, health care organizations must address the problem of behaviors that threaten the performance of the health care team."

Disruptive Behavior

- What type of behavior can constitute "Disruptive Behavior"?
  - Inappropriate medical records entries
  - Degrading and condescending communications
  - Sexual harassment, comments, innuendoes
  - Excessive profanity
  - Racial, ethnic or socioeconomic slurs
  - Intimidating behavior
  - Threats of violence, retribution, litigation
  - Retaliation against others

What Generally Is Not Disruptive Behavior?

Examples:

- Respectfully expressing personal political views or other differences of opinion
- Constructive criticism (intended to foster improvement)
- Following established processes to address concerns
- Protected whistleblower activity
- Identifying and attempting to appropriately resolve demonstrable quality issues
- Having a "different" personality

Disruptive Behavior

- Matters involving Disruptive Behavior should be addressed through a peer review process
  - To qualify for peer review immunity
  - To qualify for peer review confidentiality
  - To increase likelihood of a positive response
- Professional conduct policies are required and should be consistent/complimentary with Medical Staff Bylaws, etc.
- Trend: **Disruptive Behavior continues to occur, yet we generally remain hesitant to act**

Prevalence & Trends

In a survey of physician leaders:

- 95% reported regularly encountering disruptive physician behavior
- 70% said disruptive behaviors nearly always involved the same physician(s)
- Nearly 80% said disruptive physician behavior is under-reported because of victim fear of reprisal or is only reported when a serious violation occurs

Drivers of Disruptive Behavior

- There is no single cause of Disruptive Behavior
  - Burnout
  - Predisposing psychological factors
  - Substance abuse/impairment
  - Personality traits and personality disorders
    - Narcissism, perfectionism, obsessive/compulsive
  - Spillover of chronic/acute family/home problems
  - Poorly controlled anger; especially under stress
    - Poor or ineffective clinical/administrative systems support
    - Poor practice management skills

Burnout Rates by Specialties

1. Critical care — 51%
2. Rheumatology — 50%
3. Infectious diseases — 49%
4. Urology — 49%
5. Pulmonary medicine — 48%
6. Neurology — 47%
7. Family medicine — 47%
8. Internal medicine — 46%
9. Pediatrics — 45%
10. Obstetrics and gynecology — 44%
11. Emergency medicine — 44%
12. Cardiology — 43%
13. Nephrology — 43%
14. Physical medicine and rehabilitation — 41%
15. Psychiatry — 41%
16. Anesthesiology — 40%
17. Gastroenterology — 40%
18. Allergy and immunology — 39%
19. Diabetes and endocrinology — 39%
20. Radiology — 36%
21. Public health and preventive medicine — 35%
22. Ophthalmology — 35%
23. General surgery — 35%
24. Pathology — 35%
25. Otolaryngology — 33%
26. Orthopedics — 33%
27. Oncology — 33%
28. Plastic surgery — 31%
29. Dermatology — 29%

Source: Medscape Survey of 12,339/29 specialties dated Nov. 5, 2020

Recognizing the Risks

Disruptive Behavior gives rise to:

- Fear
- Confusion, uncertainty
- Apathy
- Hurt ego, unhealthy peer pressures
- Distrust
- Burnout, early retirement, relocation
- Failed or lack of communication
- Errors

Recognizing the Risks

- Reluctance of staff to interact with disruptive physicians
  - Not seek clarification of orders
  - Not want to call for instructions
  - Not want to call to provide information
  - Reluctance to question inappropriate orders, actions or other errors
  - Reluctance to bring errors to physician's attention
- Institute for Safe Medication Practices:
  - 40% of clinicians reporting remaining quiet rather than confront known intimidator
  - 75% had asked a colleague to help interpret an order to avoid interacting with an intimidating prescriber

Recognizing the Risks

- Decline in employee morale
  - Can mask non-compliance
  - Reluctance of staff to challenge non-compliant conduct
  - Reluctance to report non-compliant conduct
- Credentialing/employment-related claims
  - Hostile work environment
  - "Bullying"/emotional distress
  - Constructive discharge
  - Sexual harassment

Recognizing the Risks

- Risks to reputation/confidence
  - Inappropriate conduct in front of patients/families
  - Hospital's and physician's reputation among health care providers
  - Erodes the community's confidence in the hospital's and physician's ability to provide quality patient care

Addressing Problematic Behavior

- Medical Staff v. Employment
  - Bylaws, peer review, corrective action, impairment, etc.
  - Human Resources, contracts, employer considerations, etc.
- Define clear expectations for behavior – from the beginning
- Consider preventative measures
  - Orientation/mentoring/coaching
  - 360-degree reviews
  - Education/communication
  - Burnout concerns

Addressing Problematic Behavior

- Have a defined process for enforcing conduct violations when they do occur
  - A strong infrastructure is critical
    - Medical staff driven
    - Involvement of peers (medical staff) is critical
  - What is the process?
  - Who will implement the process?
- The earlier problematic behavior is addressed, the greater the opportunity for resolution

A Receipt for Policy and Process

A. Defining acceptable and inappropriate behavior/conduct
B. Expectations and process for complaint/incident reporting
C. Process for substantiating complaint/incident
D. Who's on First – identifying responsible leader(s)
E. Guidelines (not procedure) for intervening and escalating

Addressing Problematic Behavior

- Consistently enforce expectations and process.
- The process for addressing problematic behavior should, when possible, be progressive in nature
  - Affords greatest chance of success
  - Affords more protection when there is not success
- Where you start in the process depends on where you have been:
  - Is this a long-time offender who has never been approached?
  - Is this a repeat offender who is not responding to informal efforts? Or is this a first-time offender?

Addressing Problematic Behavior

- When engaging the process, it is critical to promptly consider/explore the cause of the behavior:
  - Circumstances – financial, personal, burnout
  - Impairment – drugs, alcohol
  - Psychological issue – depression, personality disorder
  - Other….
- The best action to address disruptive behavior will inherently depend on the cause of the behavior
  - Consider need for external evaluation early in the process

Recommendations – Process

- Document, document and document – even when "collegial"
- When concerns are raised and process is employed:
  - Meet in-person (promptly)
  - The "intervention" process is critical
    - Medical Staff leadership/peers should be involved (per process)
    - Explore the nature of the behavior
    - Is the practitioner even aware of his/her behavior?
    - Reference the process
    - Communicate clear expectations and plan of action
    - Do not lose to follow-up

Recommendations – Process

- Credentialing and re-credentialing:
  - Credential new applicants carefully
    - Gaps in history
    - Lots of movement
    - "Voluntary resignations"
  - Re-credentialing
    - Evaluate prior two years
    - Evaluate results of OPPE
    - Ensure peer review committees are (appropriately) sharing relevant information

Recommendations – Process

- Considerations for Corrective Action:
  - Remember: peer review immunity requires a reasonable investigation
    - Is this a pattern of conduct or an egregious/isolated occurrence?
    - Consider past collegial intervention, investigations, actions
    - Review the pertinent documentation
    - Speak with the relevant witnesses
    - Consider need for outside review/evaluation
      - Medical Staff Committee should dictate (or minimally approve) this process
      - Address authorizations/releases up front
  - Follow your process and document compliance and investigation
  - Identify what standards and/or rules have been violated and how

Recommendations – Process

- Considerations for Corrective Action:
  - Remember: peer review immunity requires a reasonable action
    - Measured, proportional responses
    - Progressive action is preferred (when it is possible)
    - Document rationale for action
    - Consider timing of summary suspension (if applicable)
    - Address retaliation
  - Be careful with timing of summary suspension (if applicable)
  - Be careful to appropriately address claims of disability
  - Recognize fair hearing rights if "adverse action" is recommended

Questions?

Contact Us

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