

# Dealing with Difficult Doctors

*Building a Collegial, Productive Healthcare Workplace*

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Disruptive Physician Behavior Could Be Contributing to the Nursing Shortage

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Healthcare risk management is usually thought of in terms of patient treatment issues; however, changes in the law, society, and healthcare workplace suggest that the way in which staff, colleagues, allied health workers, and others are treated must also be regarded as a risk management matter. Increasingly, lawsuits are being filed against physicians, academicians, and healthcare employers by plaintiffs' lawyers who recognize that sexually inappropriate, abusive, or otherwise unprofessional behavior can lead to major jury verdicts—or force significant settlements. In some cases, the physician's license to practice may be at risk. And whether or not the license is suspended, scandalous headlines often

follow and individual and organizational reputations can be irreparably damaged.

The key to risk management is creating a workplace culture that fosters openness, respect, civility, and teamwork. Most high-risk, high-publicity cases erupt out of simple behavior patterns: rude, insensitive remarks, emotional or physical outbursts, belittling or demeaning behavior, and other uncivil conduct. Whether the case is eventually won or lost, avoiding the behavioral patterns in the first place—and therefore, the resulting litigation—is a more prudent, cost-effective, and protective course of action. Just as physicians counsel their patients to

take a few simple, preventative measures to safeguard their health, they can modify their own behavior to safeguard their careers and spend their time focusing on the patient care objective rather than defending lawsuits in court.

In this paper, we'll address the scope of the problem and its impact, the role of leadership in building a healthy workplace, and best practices for handling the special challenges of training a physician audience.

## SCOPE OF THE PROBLEM

*“Even the most mellow person can raise a voice in a tense situation, but [some doctors] give themselves permission to have temper tantrums in the OR.”*

— *surgical resident*

### Difficult Doctors Create Legal Risk

There is no question that the medical profession can be stressful. Faced with life-and-death situations and urgent decisions, physicians have to be able to count on those around them to perform to the highest standards. However, physicians are highly trained professionals who should be expected and able to work—even in stressful situations—without bullying or demeaning others in the workplace. Similarly, they shouldn't have to resort to sexual innuendo, jokes, or inappropriate banter in order to “blow off steam.” While collegiality and positive working

relationships are key elements in creating an effective medical team, as a matter of risk management, certain actions and comments must be avoided in the workplace at all times.

Certain behavior, such as conduct related to sexual, racial, ethnic, religious, or other characteristics, can create legal liability for the organization under Title VII of the Civil Rights Act of 1964. Title VII prohibits discrimination in the workplace and also prohibits retaliation against employees who raise complaints or file claims of employment discrimination. Employees also have legal remedies available under state principles involving tort issues. Tort claims, such as assault and battery, defamation, and intentional infliction of emotional distress, can include punitive and compensatory damages and lead to multi-million dollar recoveries.

In teaching hospitals and universities, the organization can be held liable under Title IX of the Civil Rights Act, which prohibits gender-based discrimination at any educational program that receives federal funding. Because sexual harassment falls within the category of gender discrimination, an individual who believes he/she has been sexually harassed at an educational institution can file a lawsuit under Title IX. The federal government may also withdraw funding to an academic institution for violating Title IX. As a result, if a supervising physician at a teaching hospital makes sexual remarks or has a sexual

relationship with an intern he/she supervises, the physician may not only face personal liability, but may also put the hospital at risk.

Whether they are interacting with patients, nurses, residents, or anyone else in the institution, physicians have a responsibility to demonstrate professionalism in all their actions. Failing to do so, and failure of the administration to hold them accountable for their behavior, invites financial and legal risk and can undermine the reputation and credibility of both the physician and the institution.

## THE IMPACT

Behavior does not have to rise to the level of a legal violation to create significant problems for the organization, its patients, and the healthcare community.

### Difficult Doctors Drive Away Staff

Disruptive physicians—those who repeatedly display inappropriate behaviors including yelling, threatening, harassing, grabbing, throwing objects, berating, or intimidating others—can wreak havoc on the healthcare work environment. A 2002 study<sup>1</sup> on nurse-physician relationships revealed that 92.5% of the respondents had witnessed disruptive physician behavior. Significantly, the respondents reported that, on average, 2.4 nurses left their facility each year

because of disruptive physicians. Twenty-four percent said the behavior also led nurses to make schedule, shift, or other changes to avoid contact with these physicians. Today's healthcare institutions, faced with nursing and staff shortages, can ill afford to lose talented people due to disruptive doctors and the toxic workplaces they create.

### Difficult Doctors Breed More of the Same

*“Whether consciously or not, the conduct of attending physicians influences how residents act and behave with colleagues and their patients...unprofessional behavior...is contagious.”*

— David Leach, Jr., M.D., Accreditation Council of Graduate Medical Education

Physician behavior can also impact the way residents and interns behave, not only during their residencies but once they go into practice on their own. Residency is often seen as an apprenticeship, where individuals emulate the actions of their superiors in their daily interactions. If disruptive, abusive, or harassing physician behavior is tolerated by the administration or seen as the norm, then residents will learn and model that standard, perpetuating the behavior throughout the healthcare system.

## Difficult Doctors Hurt Patient Care

When any inappropriate conduct is allowed to permeate the healthcare workplace, the patients may ultimately be the ones who suffer the most. According to Dr. A. Stuart Hanson, an expert on workplace culture and patient safety, an honest, open, and respectful healthcare work environment fosters better performance and a reduction in medical errors.<sup>2</sup> He added that a positive culture attracts and retains higher quality professionals who are able to work together effectively and create a healthier environment for patient care.

Similar findings were uncovered in a study of professionalism and performance among anesthesiology residents. The study revealed that those residents who exhibited unprofessional behavior also demonstrated significant problems in various areas related to clinical performance. It concluded that “the results suggest...clinical excellence and unprofessional behavior rarely coexist.”<sup>3</sup>

If these issues—which have broad impact on the entire workplace culture—are not addressed effectively, healthcare institutions could well be facing a crisis of confidence among their patients, boards, and the general public. The good news is that when organizations take steps to implement a comprehensive process for building a healthy workplace, they can reap positive results throughout the entire enterprise.

## A HEALTHY WORKPLACE BEGINS WITH THE LEADERSHIP

Building a healthy work environment requires participation from all facets of the organization, and like most organization-wide initiatives, it has to start with the leadership. Hospital leaders must set the standard for the way others behave, first, in their own daily conduct; second, by communicating it regularly and credibly as a required performance expectation; third, by enforcing it consistently; and, finally, by ensuring individuals aren't retaliated against for raising concerns about standards violations. By both their words and actions, leaders are role models. If they can't back up their messages with actions that reflect those sentiments, their efforts will be fruitless. A leader who talks about treating one another with respect but yells at and humiliates a staff member who makes a mistake sends a much louder message through his/her actions than words.

## SETTING THE STAGE FOR CHANGING PHYSICIAN BEHAVIOR

### Developing Appropriate Messages

Healthcare leaders must develop policies, codes, and values that reflect the behavior expected of all physicians who interact in their workplace. They must then communicate specific standards that must be adhered to in the context of risk

management, performance, and patient care. While there are some general standards that will apply to any institution—behavior that specifically violates the law, including inappropriate comments and conduct of a sexual, racial, or other nature—certain types of behavior may need additional emphasis due to circumstances specific to the individual organization. Based on the make-up of its staff or the community in which it operates, a hospital may face issues involving racial tension more so than sexual harassment or abusive conduct issues, for example. Additionally, if the organization has recently undergone ownership or internal structural changes, other divisive problems may have erupted that need to be addressed. An internal scan and analysis will help determine the appropriate content and context for communication, training, measurement, follow up, and reinforcement. Some methods for determining areas of emphasis include:

**Results of internal satisfaction surveys:** Such surveys may uncover specific departments or issues where problems are concentrated, and they may also reveal systematic problems such as inadequate or poorly communicated processes for raising and addressing employee complaints internally.

**Focus groups:** Interviewing small peer groups can bring to light patterns of concerns as well as the disconnect between the way behavior

and issues are interpreted by different groups within the organization. For example, when we conducted focus groups for one medical institution, staff physicians told us that residents learned how they should behave and act by watching senior residents. However, the residents told us they learned standards by modeling the actions of their attending physicians. These results revealed areas where physicians needed more instruction and specific communication to make them aware that their conduct influenced those around them more than they might realize.

In general, individuals will be more candid in their feedback when outside experts facilitate focus group sessions and some degree of anonymity is guaranteed.

**Review of internal and external complaints:** Patterns are often readily identifiable simply by reviewing the complaints brought up either internally or through external sources such as state medical boards and disciplinary committees.

## Communicating the Message

Once appropriate messages are created, they need to be communicated in a variety of ways. Leaders or department heads may choose to send out regular e-mails or include internal newsletter articles that address specific topics and remind individuals of the importance of exhibiting

professional behavior towards each other and their patients. Success stories and positive feedback from colleagues or patients can also go a long way to build momentum and enthusiasm around the concept of building a positive workplace.

Another important communication tool is **education**. All physicians and staff members need to learn not only their responsibilities for maintaining a professional workplace, but also what those responsibilities mean in terms of their every day behavior. Learning solutions must be tailored to the needs of each individual group. Content needs may be determined based on an analysis of internal issues (as discussed earlier) and any applicable compliance requirements; the specific responsibilities of individual groups (i.e. physicians, residents, nurses, staff, managers, etc.) should also be addressed.

### **In general, everyone needs to know:**

- The organization has certain standards of professionalism that everyone is expected to exhibit when interacting in the workplace environment.
- All members of the organization should treat one another with the same respect as they give patients and their family members.
- The organization's standards are in place to ensure everyone can work together effectively

and collegially in order to provide the highest levels of patient care.

- Adhering to the organization's standards is an aspect of individual performance and will be treated as such.
- If anyone has a concern about conduct in the workplace, they are encouraged to speak up about it and will not be retaliated against for doing so in good faith.

Certain groups (division chiefs, supervisors, etc.) may have additional responsibilities for handling concerns, and from a legal standpoint, need focused training that ensures their behavior and response to issues is in line with the legal requirements for supervisory personnel. If managers and supervisors fail to act appropriately, it can spell an even greater risk for the organization, from both a legal and financial perspective and in terms of the impact on teamwork and morale.

Leaders must remember, however, that one training session should not be the beginning and end of an organization's efforts. Consistent, regular communication and **reinforcement** of messages is vital to operationalizing values, policies, and standards and making them a part of everyday workplace behavior. Additionally, periodic **measurement** activities can help organizations gauge the success of training and

communication initiatives and identify gaps that need to be addressed as well as new or changing issues with regard to content and message.

## THE PHYSICIAN TRAINING COMPONENT A Prescription For Reaching Doctors

While all individuals in the organization should receive training that conveys a consistent message about standards and expectations, physicians in particular are a unique audience that often requires a unique approach. There are many innate challenges specific to training a physician audience. Acknowledging and addressing those challenges up front will be key to the success of any educational efforts the organization implements.

### Keep it Simple

To make an impact, physician training should be direct and to the point. Presenting the information from a risk management perspective provides a motivating factor that will hold the interest of busy doctors.

### Physicians need to understand:

1. **Inappropriate behavior is hazardous to a physician's financial, professional, and personal well-being.**
2. **Involvement in a lawsuit can be time-**

**consuming, expensive, and potentially career-threatening.**

3. **As a matter of risk management, certain behaviors should always be avoided in the workplace,** regardless of how stressful a particular situation might be.
4. **The organization's standards of behavior apply to everyone who interacts in the workplace.**
5. **By following simple behavioral guidelines, physicians can prevent potential distractions and costly lawsuits** and focus more effectively on the patient care and/or research objective.
6. While this may be a change in approach or behavior for some physicians, **circumstances in the healthcare industry require physicians to constantly be able to adapt to change.** This is no different—it's simply a part of being a medical professional today.

As mentioned previously, the content should be tailored to the specific needs of the audience and program materials should be geared toward any special responsibilities each particular group may have (e.g., department chiefs or residency directors who have certain leadership or supervisory responsibilities; ombuds staff who need to know how to listen and respond appropriately to complaints).

## Keep it Short

One of the biggest challenges in reaching a physician audience is fitting the training into their schedules. For this reason, several important logistical considerations should be made:

- Ideally, each session should last no longer than an hour.
- Ensure the session begins and ends on time. Ending earlier than the time allotted is even better.
- Consider scheduling sessions at mealtimes (e.g., 7:30 a.m., 11:30 a.m., 5 p.m.).
- Consider including sessions as a segment of day-long conferences and continuing education programs already in place.

## Give it Credibility

Leadership involvement can lend credibility and impact to any training initiative and encourage broader attendance and participation. Leaders should deliver messages up front about why the training is being implemented and why they, personally, think it is important and support it. As mentioned previously, it is also vital that leaders “walk the walk,” by attending the training themselves, ensuring their own behavior meets the highest standards of professionalism at all times, and introducing the sessions when possible.

Finally, providing CME credits for the program will give physicians additional incentive to participate.

## PUTTING IT ALL TOGETHER

### An Action Plan for Leaders

To build a collegial, productive healthcare work environment, hospital executives and leaders must establish, communicate, and enforce a common set of behavioral standards that reflects the organization’s mission and bolsters the patient care and/or research objective. They must ensure that:

- everyone’s behavior, including their own, is in line with professional standards and expectations;
- consistent messages about the institution’s values, standards, and policies are communicated on a regular basis and in a variety of ways;
- individuals know what channels are available for raising concerns and are comfortable bringing issues forward internally;
- designated staff members are prepared to listen and respond effectively to concerns, and proper systems are in place to handle issues if they arise.

Communication, education, and regular reinforcement that changes the way people behave in the healthcare workplace will serve as tactical tools to help leaders reach their objectives and underscore their mission. Leaders who are able to “put it all together” can achieve positive results, not only for their work environments but also, importantly, for their patients.

*“If you’ve made progress, then you have to institutionalize the behavior...change comes only through having people on board.”*

— *A. Stuart Hanson, M.D.*  
*President and CEO*  
*Park Nicollet Institute*

## ENDNOTES:

- 1 Nurse-Physician Relationship Survey, Alan H. Rosenstein, M.D., M.B.A, VHA West Coast, Pleasanton, Calif., 2002.
- 2 Employee morale impacts quality of care in healthcare industry: *Positive culture may reduce medical errors*, American Medical Association, AMA Science News Department, October 29, 2001.
- 3 Professionalism and clinical excellence among anesthesiology residents, M.F. Rhoton, Department of Anesthesiology, Case Western Reserve University School of Medicine, Cleveland, Ohio, April 1994.

## **STEPHEN M. PASKOFF, ESQ.**

Stephen M. Paskoff, Esq., is the founder and President of Employment Learning Innovations, Inc. (ELI), an Atlanta-based firm specializing in providing workplace learning solutions that focus on behaviors and outcomes while helping organizations minimize risk and maximize productivity. Mr. Paskoff and ELI gained national recognition with the development of Preventive Employment Medicine®, the first program ever specifically designed to train hospital management on how to avoid costly employment-related litigation. With Just Doctors® and other ELI programs and services, Mr. Paskoff has worked closely with a number of prominent healthcare institutions to help them address physician misconduct issues and minimize the potential for risk and unnecessary distractions. A partial list of the organizations Mr. Paskoff has worked with recently includes: Children's Hospital of Alabama; Children's Healthcare of Atlanta; Children's Hospital of the King's Daughters Health Systems; Children's Hospitals & Clinics, Minneapolis/St. Paul; St. Louis Children's Hospital; Mayo Clinic; Baptist Health Systems; and Partners Healthcare.

Mr. Paskoff is a nationally recognized speaker on workplace legal issues and has presented at a number of national conferences, including the American Society for Healthcare Human Resource Executives (ASHHRA), the American College of Healthcare Executives (ACHE), the Industry Liaison Group (ILG), and the American Society for Training and Development (ASTD). Additionally, Mr. Paskoff consistently ranks among the highest-rated speakers at the Society for Human Resource Management's (SHRM) national conferences. A former trial attorney with the EEOC and partner in a management law firm, Mr. Paskoff is a graduate of Hamilton College and the University of Pittsburgh School of Law. He is a member of the Pennsylvania and Georgia bars.

## **ABOUT EMPLOYMENT LEARNING INNOVATIONS, INC.**

Founded in 1986, Employment Learning Innovations, Inc. (ELI®) develops integrated learning solutions that assist organizations in changing workplace behaviors, communicating standards of business conduct, and building a proper legal and ethical work environment.

ELI® developed Just Doctors®, an interactive risk management course specifically for physicians and medical faculty to help them minimize their chances of ending up in the courtroom. The program, which has been approved for CME credit in several states, discusses high-risk and unprofessional behavior and the devastation it can cause to healthcare organizations and healthcare professionals in terms of expense, retention, time, negative publicity, and distractions. ELI® has also developed custom programs addressing behavioral standards for residents, fellows, and interns, as well as guidelines for proper interactions with patients.

ELI®'s proven learning methodology focuses on outcomes that tie daily interactions and behavior with organizational values. By taking complex legal issues and presenting them in everyday language with easy-to-remember guidelines, the programs provide participants with the tools they need to fulfill their responsibilities for maintaining a productive, legal, and collegial workplace. The ELI® curriculum provides interactive, engaging classroom and online learning experiences that reach all constituencies within an organization, ensuring a consistent message is communicated throughout.

### **For additional information:**

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