

Another Reason to be on Your Best Behavior: The Joint Commission's New Disruptive Physician Standard

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Anyone who litigates medical malpractice cases knows that poor physician behavior leads to increased legal exposure. Rudeness and insensitivity to patients or their families are frequently mentioned as reasons why otherwise reasonable people decide to consult lawyers and file lawsuits against physicians. This same behavior with colleagues and other health professionals also leads to exposure, including unflattering charting, encouragement of legal action, and even referral to a lawyer. If these reasons weren't enough for physicians to curb bad behavior, the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) is making bad behavior a priority for its accredited facilities. Now more than ever, bad behavior will be a focal point of medical staff and hospital activity in the future. Expect more hospital attention and action toward disruptive physicians and physicians involved in disruptive incidents.

On July 9, 2008, the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) released its 40th Sentinel Event Alert, entitled "Behaviors That Undermine a Culture of Safety." In conjunction with its release of the sentinel event alert, JCAHO instituted a new leadership standard in which disruptive and inappropriate behavior by clinicians is addressed. The new standard, LD.03.01.01, went into effect on January 1, 2009 for all accreditation programs. Specifically, LD.03.01.01 is comprised of 10 "Elements of Performance" that seek to address disruptive behavior of physicians or staff members within a health care environment (See Appendix A for list of JCAHO requirements). The list of requirements include monitoring the atmosphere of the workplace, implementing a plan to make sure the behavior of a clinician is in line with the expectations of the facility, and working with physicians and staff members who have been disruptive to assure the situation is resolved. Included in the elements are requirements that the hospital or organization have a code of conduct that defines acceptable, disruptive and inappropriate behaviors, and that leaders are in place to create and implement a process for managing disruptive and inappropriate behaviors. JCAHO believes that these two elements are crucial to discouraging troublesome behavior in medical facilities.

JCAHO established these criteria based on its belief that a plethora of incidents involving improper conduct have taken

place. According to the Joint Commission, there are many factors inherent to the health care environment that lead to inappropriate conduct. The increased stress of patient management and care as well as the presence of fatigue can often exacerbate difficult situations and create an environment of hostility. Further, the demanding caseload and stress of dealing with life and death situations can wear on any health care provider. JCAHO's implementation of LD.03.01.01 seeks to help facilities address these behavioral and situational challenges. The elements of performance outlined in LD.03.01.01 deal not only with ending aggressive behavior such as physical threats or verbal assaults, but also discouraging passive activities like refusal to answer questions or return phone calls or pages.

In addition to JCAHO's requirements, the organization provided a list of suggestions including: (1) educating all team members on appropriate professional behavior defined by the organization's code of conduct; (2) holding all team members accountable for modeling desirable behaviors; (3) developing and implementing policies and procedures to address intimidating or disruptive behavior; (4) soliciting input from team members to develop an organizational process for addressing intimidating and disruptive behavior; (5) providing skills-based training and coaching for all leaders and managers; (6) implementing a system for assessing staff perceptions of the seriousness and extent of instances of unprofessional behavior; (7) implementing a reporting or surveillance system for detecting unprofessional behavior; (8) supporting surveillance with non-confrontational interventional strategies; (9) conducting all interventions within the context of an organizational commitment to the health and well-being of all staff, with adequate resources to support individuals whose behavior is caused or influenced by physical or mental health pathologies; (10) encouraging inter-professional dialogues across a variety of forums to address ongoing conflicts; (11) documenting all attempts to address intimidating and disruptive behaviors.

JCAHO hopes that the implementation of the new requirements of LD.03.01.01 will result in many positive changes for health care providers and facilities. Primarily, it should enhance patient care by decreasing medical errors that result from the distraction of working in a tense environment. By enhancing the work environment of staff members and physicians, the health care team should be able to better serve the

patient. Further, providing a friendlier, less stressful work environment should help facilities hire and retain employees. Finally, because a direct link exists between medical malpractice claims and patient complaints regarding unprofessional and disruptive behavior,¹ better attitude management in the workplace can help to avoid unnecessary litigation.

More than ever, physicians should be on their best behavior with patients, patients' families and colleagues.

Appendix A: Elements of Performance for LD.03.01.01

1.	Leaders regularly evaluate the culture of safety and quality using valid and reliable tools.
2.	Leaders prioritize and implement changes identified by the evaluation.
3.	Leaders provide opportunities for all individuals who work in the hospital to participate in safety and quality initiatives.
4.	The hospital has a code of conduct that defines acceptable, disruptive and inappropriate behaviors.
5.	Leaders create and implement a process for managing disruptive and inappropriate behaviors.
6.	Leaders provide education that focuses on safety and quality for all individuals.
7.	Leaders establish a team approach among staff at all levels.
8.	All individuals who work in the hospital, including staff and licensed independent practitioners are able to openly discuss issues of safety and quality.
9.	Literature and advisories relevant to patient safety are available to all individuals who work in the hospital.
10.	Leaders define how members of the population(s) served can help identify and manage issues of safety and quality within the hospital.

References

1. "Behaviors that Undermine a Culture of Safety" The Joint Commission: Sentinel Event Alert, Issue 40 (July, 2008) (citing Hickson GB et al; Patient complaints and malpractice risk. *Journal of American Medical Association*, 2002, 287:2951-7) (citing Hickson GB et al; Patient complaints and malpractice risks in a regional healthcare center. *Southern Medical Journal*, August 2007, 100(8): 791-6) (citing Stelfox HT, Ghandi TK, Orav J, Gustavson ML: The relation of patient satisfaction with complaints against physicians, risk management episodes, and malpractice lawsuits. *American Journal of Medicine*, 2005, 118(10): 1126-33.

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