PROFESSIONAL BEHAVIOR FOR HEALTHCARE PROFESSIONALS

Presented by:

www.TheHealthLawFirm.com
Today's Lecturers:
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OBJECTIVES

• Identify what it means to be a disruptive physician
• Identify pitfalls of social media
• Identify acceptable and unacceptable professional behavior
DEFINITION

• Disruptive behavior consists of a pattern of behavior that interferes with the physician’s effective clinical performance
• Disruptive behaviors negatively impact the persons with whom the physician interacts
• The behaviors include inappropriate anger or resentment, inappropriate words or actions, and inappropriate responses to patients’ needs or staff requests
FOLLOW MEDICAL STAFF POLICIES

• Medical staff and hospitals develop behavioral standards

• Bylaws define appropriate and disruptive behavior

• Medical staff bylaws, policies and procedures should be consistent with hospitals’ regulations, and with federal, state and local laws
HOW BEHAVIOR IS IDENTIFIED

- Patient complaints and surveys
- Peer assessments
- Reviews that utilize feedback from coworkers, including:
  - Physician peers
  - Nursing staff
  - Administrators
YOU MIGHT BE A DISRUPTIVE PHYSICIAN IF...
YOU MIGHT BE A DISRUPTIVE PHYSICIAN IF YOU...

- Yell
- Use foul and abusive language
- Publically criticize coworkers
- Insult or shame others
- Slam, throw or break objects
- Are physically aggressive
YOU MIGHT BE A DISRUPTIVE PHYSICIAN IF YOU...

- Use hostile avoidance or the “cold shoulder”
- Intentionally miscommunicate
- Are unavailable for professional matters
  - Not answering pages from certain people
- Use implied threats
- Use racial jokes or slurs
- Joke about a person’s appearance
DISRUPTIVE PHYSICIANS

• Personality Traits
  – Highly-skilled
  – Well-read
  – Intelligent
  – Articulate
  – High-achieving
  – Confident

• Problem Traits
  – Arrogant
  – Intimidating
  – Controlling
  – Vindictive
  – Failure to self correct
  – Entitled
IMPACT OF DISRUPTIVE PHYSICIANS IN THE WORKPLACE

- Lower staff morale
- Increased turnover
- Negative reputation of healthcare system
- Poor patient satisfaction
- Increased cost of care
- Lawsuits
PERSONAL IMPACT OF BEING LABELED A DISRUPTIVE PHYSICIAN

• Being proven to be a disruptive physician may lead to:
  – Adverse action against clinical privileges resulting in a NPDB report
  – Action to drop the physician from insurance panels
  – Adverse action by the state medical board
  – Loss of specialty certification
IF YOU ARE TAGGED AS A DISRUPTIVE PHYSICIAN

• Educate yourself about the issue
• Avoid conduct labeled as “disruptive behavior”
• Seek professional counseling
• Respond to the complaint, but do so with your attorney
FALSE ACCUSATIONS

• Bylaws should include a due process component
• Complaints should not be considered without a complaint verification process
• Bylaws should include an appeals process with an option for a fair hearing
SOCIAL MEDIA
PHYSICIANS USING SOCIAL MEDIA

• 87% use social media for personal use
• 67% use social media for professional purposes
• 35% have received friend requests from patients or their family members

USING SOCIAL MEDIA & SOCIAL NETWORKING IN MEDICAL PRACTICE

- Federation of State Medical Boards released “Model Policy Guidelines for the Appropriate Use of Social Media and Social Networking”
PROFESSIONALISM

• Physicians should:
  – Use separate personal and professional social networking sites, profiles and e-mails
  – Report any unprofessional behavior to the proper authorities
  – Observe the same standards of ethical conduct online that would be observed offline
MEDICAL BOARD SANCTIONS
AND DISCIPLINARY FINDINGS

• State medical boards have the authority to discipline for inappropriate online conduct, including:
  – Inappropriate communication with patients
  – Use of the internet for unprofessional behavior
  – Violations of patient confidentiality
  – Proof of impairment
MEDICAL BOARD SANCTIONS AND DISCIPLINARY FINDINGS

• Including:
  – Failure to reveal conflicts of interest
  – Derogatory remarks regarding a patient
  – Depiction of intoxication
  – Using discriminatory language or practices
INTERACTING WITH PATIENTS

• Physicians should refrain from interacting with past or current patients on personal social media sites
• Never discuss information pertaining to the physician-patient relationship
PRIVACY/CONFIDENTIALITY

• Patient privacy and confidentiality must be protected at all times
• Physicians can discuss their clinical experience but should refrain from including details that may identify a patient
DISCLOSURE

• Physicians may write online about their experience as healthcare professionals, but they must reveal existing conflicts of interest and be honest about their credentials as physicians.
POSTING CONTENT

• Physicians must realize that any information they post online can be disseminated without their consent to a huge audience

• Content can be taken out of context and will remain online forever
DISCUSSION OF MEDICINE ONLINE

• Physicians must ensure that information exchanged on these sites remains confidential
• Physicians must ensure that non-physicians do not rely on the online discussion as medical advice
TIPS TO AVOID HIPAA VIOLATIONS IN SOCIAL MEDIA

• Don’t talk about patients, even in general terms
  – “We had a fifty-year-old male in the ER last night with alcohol-induced liver disease.”
• Do talk about conditions, treatments and research
TIPS TO AVOID HIPAA VIOLATIONS IN SOCIAL MEDIA

• Don’t be anonymous
• If you wouldn’t say it in the elevator, don’t put it online
• Check the tone of your social media presence
  – Be careful when complaining or joking
TIPS TO AVOID HIPAA VIOLATIONS IN SOCIAL MEDIA

• Don’t mix your personal and professional lives
  – Create separate professional pages
  – Don’t friend patients
  – Check privacy settings
HIPAA LIST OF IDENTIFIERS

• Names
  – Including initials
• All geographical subdivisions smaller than a state
• All elements of dates (except year) for dates directly relating to an individual
HIPAA LIST OF IDENTIFIERS

• Phone numbers
• Fax numbers
• E-mail addresses
• Social Security numbers
• Medical record numbers
HIPAA LIST OF IDENTIFIERS

- Health plan beneficiary numbers
- Account numbers
- Certificate/license numbers
- Vehicle identifiers and serial numbers
- Device identifiers and serial numbers
HIPAA LIST OF IDENTIFIERS

• Web Universal Resource Locators (URL)
• IP address numbers
• Biometric identifiers
• Full face photographic images
• Any other unique identifying number, characteristic or code
<table>
<thead>
<tr>
<th>HIPAA Violation</th>
<th>Minimum Penalty</th>
<th>Maximum Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual did not know (and by exercising reasonable diligence would not have known) that he/she violated HIPAA</td>
<td>$100 per violation, with an annual max. of $25,000 for repeat violations (Note: max. that can be imposed by State Attorney General regardless of the type of violation)</td>
<td>$50,000 per violation, with an annual maximum of $1.5 million</td>
</tr>
<tr>
<td>HIPAA violation due to reasonable cause and not due to willful neglect</td>
<td>$1,000 per violation, with an annual maximum of $100,000 for repeat violations</td>
<td>$50,000 per violation, with an annual maximum of $1.5 million</td>
</tr>
<tr>
<td>HIPAA violation due to willful neglect but violation is corrected within the required time period</td>
<td>$10,000 per violation, with an annual maximum of $250,000 for repeat violations</td>
<td>$50,000 per violation, with an annual maximum of $1.5 million</td>
</tr>
<tr>
<td>HIPAA violation is due to willful neglect and is not corrected</td>
<td>$50,000 per violation, with an annual maximum of $1.5 million</td>
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</tr>
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HIPAA VIOLATION?

• Facebook post from a OB/GYN
  – “So I have a patient who has chosen to either no-show or be late (sometimes hours) for all of her prenatal visits, ultrasounds and NSTs. She is now 3 hours late for her induction. May I show up late to her delivery?”
HIPAA VIOLATION?

- Facebook post about patient with nickname “Benz” because her name was Mercedes
- Discussed diagnosis and treatment for oncoming physician
PROFESSIONAL BEHAVIOR
ACCESSING RECORDS

• Do not access records of patients you are not seeing
  – Nurse fired for looking at Tiger Woods’ medical records

• EMR tracking
  – Current case involving stalking by physician who looked up demo information for address hundreds of times
BOUNDARY ISSUES

• Investment/business relationships
• Reciprocal treatment agreements
• Prescription exchanges
• Treatment of friends and relatives in general
• Inter-office dating
QUESTIONS?
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