



Objectives

After completing this activity, participants should be better able to:

- Describe the current expectations regarding professionalism and the medical staff.
- Identify and strengthen bylaws and policies to support effective intervention of professional lapses.
- Identify the range of options available to address professionalism lapses when they occur.

Professionalism

Professionalism

A commitment to uphold shared ethical values...

and

What the public and individual patients can and should expect from medical professionals

So, What is the Opposite?

Behavior that fails to meet the ethical and professional obligations expected by the public and by the profession

New Jersey physician admits to buying, selling oncology medication for profit

Mariah Taylor (Email) - Thursday, June 1st, 2023

BECKER'S
HOSPITAL REVIEW

Unprofessional Conduct in the News

Kansas pediatrician pleads guilty to conducting \$300K telemedicine scheme

Noah Schwartz - Friday, November 11th, 2022

BECKER'S
HOSPITAL REVIEW

Former physician to pay over \$1.1M for performing medically unnecessary procedures

by Sasha Terry Mon, April 24th 2023, 6:41 PM MDT



NAMSS
EDUCATION. ADVOCACY. PATIENT SAFETY.

47TH EDUCATIONAL CONFERENCE & EXHIBITION

#NAMSS23

Could it happen at your hospital?

- Plastic surgeon known on TikTok as “Dr. Roxy”
- She performed surgeries while live-streaming parts of the procedures
- At least 3 patients reported severe complications – infections, perforated intestine, loss of brain function
- She maintained that live-streaming the surgeries — to anywhere between 100,000 and 500,000 TikTok users per video — did not affect the procedures
- She received a warning letter from the Board in 2018; in 2021 the Board sent her a letter requiring her to complete remedial courses – but she continued live-streaming
- Dr. Roxy said, “The stuff we do there is a little bit educational and answering people’s questions, and it’s a little fun and silly ... And I know people look at that and think it’s unprofessional.”
- Medical Board of Ohio permanently revoked her license in 2023

TikTok plastic surgeon who live-streamed procedures loses li
The Washington Post

By [Timothy Bell](#)
July 13, 2023 at 12:19 p.m. EDT

Employee told he “looked like a monkey”

- Section chief made a "monkey-like motion" with her arms and told him, "You look like a monkey"
- Nurse reported a hostile work environment and filed complaint with EEOC
- Hospital investigation found the harassment claim was substantiated
- Hospital settled case for \$45,000

UNPROFESSIONAL CONDUCT



Examples of Unprofessional Behavior

Internist sent unwanted texts of flirtatious and sexual content to a resident

General surgeon prescribed a benzodiazepine to spouse on several occasions

Doctor under review for poor documentation goes through other physicians' patient records to "prove" he's no different than anyone else

Physician left shift early and did not respond to patient code

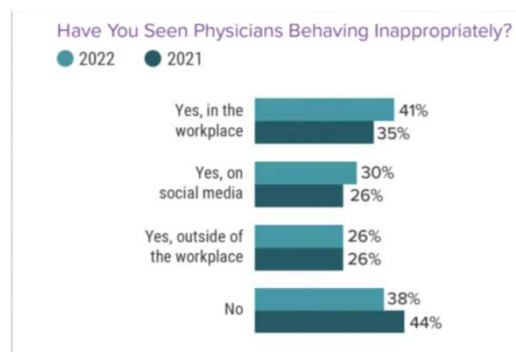
Surgeon yelling and belittling staff in the OR

Hospitalist doing a 3-year fellowship was dismissed after first year; represented to the hospital that it was just a 1-year program and did not disclose dismissal

Physicians Behaving Badly: Stress and Hardship Trigger Misconduct

2022 Medscape survey of more than 1500 doctors

- Physicians reported seeing more frequent incidents of inappropriate behavior in the workplace in 2022
- Tension, stress, COVID, burnout... have made many physicians tired, frustrated, depressed, and more reactive to situations
- Behavior on social media and outside of work can also be considered unprofessional conduct
- Spreading misinformation is receiving more attention, whether shared in a medical visit or on social media
- 70% of respondents said one doctor's misbehavior taints the whole profession



https://www.medscape.com/viewarticle/981859_print

Technology Risks

More use of social media

TikTok; Live Streaming; YouTube

More texting

Casual tone; no filter; emojis
Text messages are not protected from discovery

Access to EMR

High competence in use
Easier to bend the rules

New Generation of Providers

Different generational expectations

Health care is at a particular risk for sexual harassment allegations

Complaints of inappropriate conduct may be diminished due to nature of work

Employees work in close proximity

Hierarchical nature of medical setting can empower predators

Sex harassment lawsuit against Yale, doctor, is settled

BY DAVE COLLINS

Published 4:07 PM MDT, July 15, 2024



- Six female physicians alleged that a male physician grabbed them and kissed them against their will and repeatedly touched them without consent
- Filed a lawsuit alleging that:
 - The physician made inappropriate comments about their bodies
 - The physician retaliated against them including making false claims about their job performance
 - The officials at Yale refused to discipline the physician despite repeated complaints.
 - Yale hired the physician after he left two other institutions amid similar allegations
- Yale reached a confidential settlement with the women

Potential consequences of unprofessional conduct in the healthcare setting

Poor morale

Increased staff
turnover

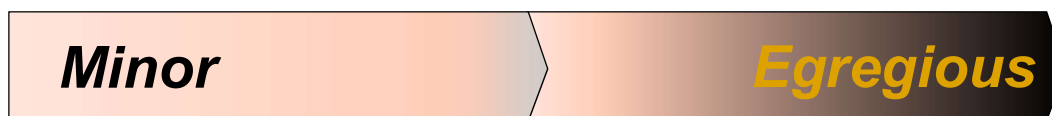
Risk of
complications or
poor clinical
outcomes

Lawsuits

Perpetuation of a
culture of
tolerance

MEDICAL STAFF IMPLICATIONS

Severity of Misconduct



Professionalism Standards Have Not Changed

– but –

Accountability Expectations Have

- Current clinical life can cause physicians to feel burned out, cut corners, or fail to consider the consequences of their actions when rushed or stressed.
- This sometimes leads them to take actions that violate professionalism expectations of the medical staff and of their patients.
- Historically, these issues have been under reported and under addressed.
- In the today's culture, hospitals are much less tolerant of professional missteps.
- Failing to address these behaviors can result in significant legal risks and repercussions for the institution.

Unprofessional Conduct

Unprofessional conduct encompasses disruptive behavior, but is broader

A holistic professionalism policy will establish a means to address and remediate the entire spectrum of unprofessional conduct – not just the most egregious

It is important to be aware of the tools available to remediate the spectrum of unprofessional behaviors

From the physician's perspective, be aware of potential due process and other protections that may apply

Training and Reporting

Medical Staff and employees should be trained on the code of conduct and reporting system.

The code of conduct should be enforced consistently and fairly.

These issues should be investigated and addressed in a timely manner, regardless of the prestige or seniority of the person involved.

NOV 22 | MORE ON COMPLIANCE & LEGAL (/RESOURCE-TOPIC/COMPLIANCE-LEGAL)

Why hospitals can't ignore their 'Harveys', must create supportive culture for reporting sexual harassment

Expert says failure to address and punish the behavior, regardless of the perpetrator's status, can have big costs.

Apply to all ethical issues	Be proactive	Have written policies	Inform employees	Investigate & take action
Apply these principles to sexual harassment and all other ethical violations	Be proactive in laying the groundwork for a safe, secure environment where employees can report behavior without fear of retaliation	Have appropriate policies that are written and implemented regarding harassment and discrimination of any kind	Inform employees of such policies and provide a safe method to report	Investigate and take action swiftly, whether reported bad behavior is an executive, a physician or staff member



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How should hospitals respond?

Goal: To arrive at an outcome that prioritizes patient and staff safety while recognizing the rights of the clinician involved

Considerations

Egregiousness of the behavior

Potential impact of the behavior

One-time or repetitive conduct

Prior intervention and outcome



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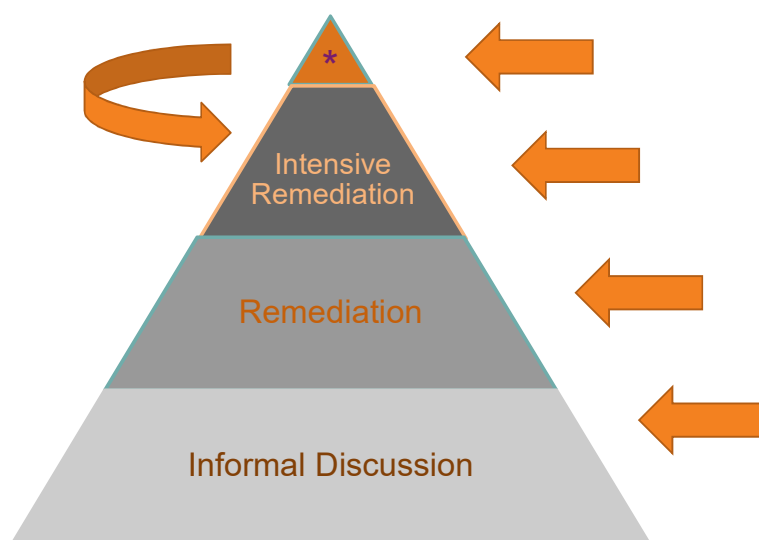
What should hospitals do if unprofessional conduct is reported?

Hospitals must take reports seriously and investigate fully

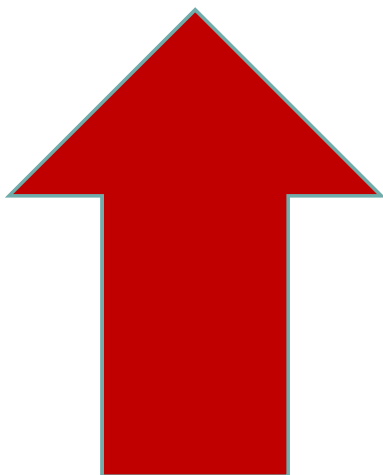
- Follow policies and be consistent
- Meet with the individual
- Document the investigation
- Evaluate the evidence, if any

Remember that not every report will be substantiated

Graduated Evaluation and Response



Significant Incident? Hospital's Perspective



If an incident is significant enough, hospital may move straight to:

- Skip steps in policy
- Summary suspension of privileges
- Filing criminal charges
- Other disciplinary action

INFORMAL DISCUSSION Cup of Coffee Chat

Cup of Coffee Chat

- An informal conversation can help address problematic behavior
- Goal is to deliver a single “story” or observation and let the physician know what was observed
- Bring the issue to the physician’s attention so they can reflect on their behavior
 - Not to “fix” the situation or place blame
- Not having the conversation may imply endorsement of the behavior and may risk its repetition
- Promotes accountability for what appears to be non-egregious unprofessional conduct



Promoting professionalism by sharing a cup of coffee

<https://www.myamericannurse.com/wp-content/uploads/2017/05/ant5-Coffee-417b.pdf>

Case Study #1

- During a surgery, Dr. Glass asked for the scrub tech to hand him a specific tool. The scrub tech handed Dr. Glass a different tool. Dr. Glass yelled at the scrub tech, “No! This is not what I asked for! Are you stupid?!” The scrub tech hands Dr. Glass the correct tool and the surgery continues without additional incident. This is reported to the Chief of Staff.
- The next day, Dr. Chief sees Dr. Glass in the cafeteria and asks if they can have a quick chat. They move to his office. Dr. Chief tells Dr. Glass he heard about an outburst during a surgery yesterday when Dr. Glass was handed the wrong tool and asks what is going on.



Case Study #1

- Dr. Glass hangs his head and says, "I lost my temper. I meant to apologize after the case but needed to run to my next surgery."
- Dr. Chief asks, "Why did you lose your temper?" and Dr. Glass confides about some personal stresses that are happening in his life.
- Dr. Chief tells Dr. Glass that his behavior was belittling to the scrub tech and isn't acceptable at the Hospital. Dr. Glass agrees and says "it won't happen again."
- Dr. Chief thanks Dr. Glass and says that his door is always open if Dr. Glass wants to talk more.
- That afternoon, Dr. Chief sends an email documenting the conversation to Dr. Glass. He forwards the email to the Medical Staff Office for the peer review file.



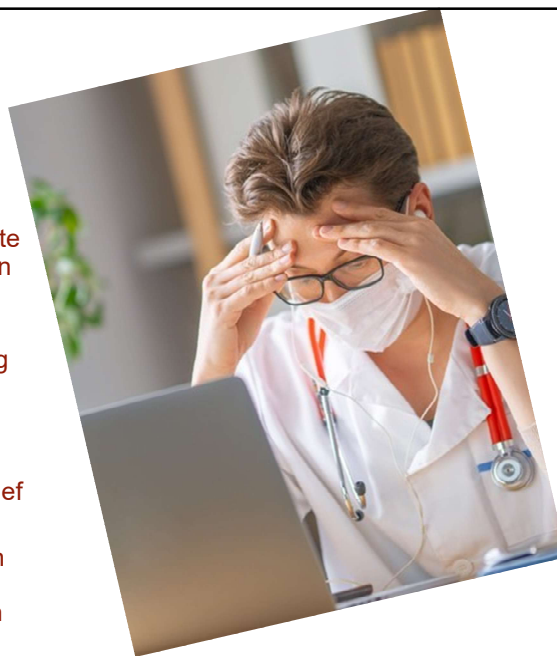
Professionalism Remediation Intensive, Skill-building Seminars

Common Professionalism Infractions Amenable to Remediation

- Boundaries Violations
 - Sexual misconduct/Privacy
 - Dual relationships
 - Drug diversion
 - Supervisory responsibilities
 - Accessing privileged info of non-patients
- Financial Violations
 - Billing issues
 - Self-referral
 - Insurance fraud
 - Unnecessary testing/treatment
- Misrepresentation
 - Lying or omitting information
 - Misrepresentation of credentials
 - Falsification
- Other
 - Unauthorized access to patient records
 - Clinical issues
 - Professional accountability
 - Inadequate record keeping or communication
 - Abandonment of patients
 - Breach of confidentiality
 - Civil or criminal violations

Case Study #2

- Chief resident in Orthopedic Surgery
- Hospital concerns about a consistent pattern of unprofessional behavior
 - Excessively consuming alcohol and having inappropriate interactions with a co-worker (who was not his fiancé) in front of others at social events
 - Cutting corners in how he does things clinically and administratively, including at times not physically seeing a patient for whom he was reporting to a supervisor
 - Not taking appropriate responsibility for mistakes and shortcomings
 - Not modeling professional behavior expected of the chief resident
- This was his “last chance.” Hospital required him to enroll in an ethics/professionalism intervention; complete on-going therapy; complete a 360 assessment; re-establish trust with junior residents



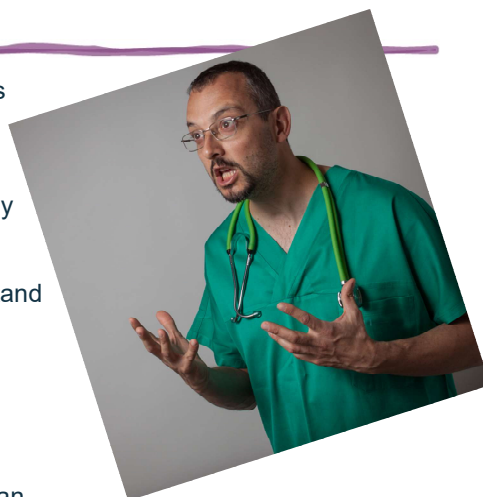
Case #3

- Hospital documented 3 incidents of disruptive behavior.
- OR equipment was not working, and the case had to be aborted. Doctor was yelling, blaming and threatening staff, cursing and kicking the table.
- Nurse reported the same behavior when anesthesia care was delayed. Doctor stated that the nurse was lying.
- A patient was upset because 2 doctors were arguing outside of her room. She said it was chaotic and she was scared.
- The doctor indicated that her inability to control her environment and patient care upset her.
- Hospital referred her to a physician health program for an evaluation. The physician health program referred her to an ethics and professionalism seminar.



Case Study #4

- Nurse reported concerns about how the anesthesiologist was draping adolescent female patients in the OR.
- Nurse felt the draping was not sufficient and essentially was indecent exposure. She noted that it was different from the way he draped male adolescent patients.
- The doctor was defensive. He felt the nurse just didn't understand his processes or the clinical reasons for his behavior. He contended that it was all just a misperception.
- Per state law, the issue was reported to the police because it involved an adolescent. No charges filed.
- Hospital issued a precautionary suspension while conducting an investigation. He was reinstated and required to complete an ethics and professionalism intervention as well as other requirements.



Professionalism Remediation

Federation of State Medical
Boards (FSMB)
Directory of Physician
Assessment And Remedial
Education Programs

How can professionalism remediation impact ethical decision-making?

Moral Sensitivity

Increase awareness of professionalism issues and ethical dilemmas

Moral Judgment

Teach tools to analyze situations from an ethical and professionalism point of view

Moral Motivation and Commitment

Train to look for and recognize conflicts of interest and dual roles

Moral Character and Implementation

Increase awareness and recognition, and mitigate risk factors such as fatigue and stress

Professionalism and ethics programs – an example

PROBE Program

Educational intervention in ethics, professionalism, boundaries

- For healthcare professionals under discipline by a licensing body or oversight agency
 - All healthcare professions
- Small-group, intensive intervention
 - Taught via zoom
 - Max of 14 participants/session
 - 2 – 3 faculty members
 - 14 hours over 3 days
 - Attendees must participate fully and disclose their “infraction”

Look for
practical
personalized
educational options

What's Involved?

Seminar Content

- Ethical theories
- Clinician-patient relationships, including boundaries
- Accountability in the healthcare profession
- Sharing of infractions that led to referral and application of learning to one's own conduct

Faculty Evaluation

- Final Essay (major)
 - Demonstrated understanding of material
 - Able to apply ethical principles to own case
 - Able to see their misconduct through the eyes of the referring organization
- Seminar (minor)
 - Preparation
 - Participation

Faculty determination of Pass/Fail

Case Study #5

- Dr. Merlot is an Ob/Gyn who was called in to attend a delivery 12:30 AM.
- Personnel suspected she was under the influence of alcohol.
- She made inappropriate comments to the patient; was loud and boisterous; had slurred speech; gave orders that did not match the orders she entered in the EMR.
- When confronted, she admitted she had consumed wine prior to coming to the hospital (She originally said it was 2 glasses of wine and then admitted it was 1.5 bottles)
- She was suspended and entered a treatment program



Case Study #5

- After a six-month absence, Dr. Merlot asked to have her privileges reinstated.
- She provided documentation that she was successful in her recovery and was cleared to practice.
- The hospital requested that she successfully complete an ethics remediation seminar as a condition of her return to practice.
- Other conditions were required, including continued monitoring by the state physician health program.



Case Study #5

Final Essay

- “I was accused of unprofessional conduct posing a serious risk to patient safety and failure to take responsibility or accountability for the amount of alcohol imbibed.”
- “Were the allegations brought against me correct and just? Absolutely. Attending the Seminar helped me realize how many ethical violations I had committed.”
- “Through this class, I now realize that my process of recovery will be on going for some time. I am once again humbled at the risks I took to both my patient but also to the integrity to myself and my profession.”
- “During the course I felt I was taking a step back in my recovery, but further reflection makes me realize that as painful as it was, I did make those steps forward in order for me to recognize the full impact of my mistakes.”



Case Study #5

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PASS



Case #6: Two sides of the divide...

- Ms. Avenge is a general surgery PA.
- She accessed her grandfather's medical record without being directly involved in his care. This breached HIPAA regulations and the hospital confidentiality policy.
 - An anonymous complaint was made to the Licensing Board.
- Ms. Avenge was sure that a co-worker (Mr. Tattle) had reported the medical record access to the Board.
- Their relationship became more and more strained over the following months.
- Mr. Tattle alleged that Ms. Avenge created a "toxic" or "hostile" work environment.
- Ms. Avenge was involved in a verbal altercation with Mr. Tattle that culminated in a shouting match with F bombs thrown by both parties at the beginning of the morning shift – in front of patients and staff.

Case #7: View from the other side

- Mr. Tattle is a general surgery PA.
- Ms. Avenge accused Mr. Tattle of filing the complaint with the board about inappropriately accessing a medical record.
- This led to passive-aggressive behavior and disruptive communication between them.
- Mr. Tattle complained that Ms. Avenge was creating a "toxic" and "hostile" work environment.
- Mr. Tattle decided to confront Ms. Avenge and her supervising physician about the issue at the beginning of a shift – in front of patients and staff.
- He video-taped the encounter, which quickly deteriorated into shouting and F bombs.

What came next...

The Medical Board did not take any action.

The hospital referred both PAs to an ethics and professionalism intervention.

The hospital felt that the essay requirement would be helpful for both individuals.

The PAs attended different sessions of the seminar.

Case #6: Excerpts from final essay – Ms. Avenge

Accessing medical record

- “In a very cavalier fashion, I thought of myself as special and like the rules did not apply to me.”
- “My actions to go against hospital policy and ultimately violate HIPPA. To some degree, they could have very easily resulted in even more people thinking the rules didn’t apply to them.”

Confrontation with co-worker

- “Ultimately, my actions towards my co-worker and the way I allowed our disagreements to rise to such a level without ever taking the time to mend our relationship was the very definition of poor ethical and moral behavior.”
- “I ultimately put patients at risk by creating a distracted workforce that day. No one can provide their best level of patient care when distracted by anger and personal issues within the team.”

“I have finally realized how much I allowed my compulsiveness and emotions to get in the way of my performance, to disrupt the ability of other staff members to effectively carry out their duties without distraction, and to potentially put patients at risk from medical error or neglect that arise when team drama takes energy away from the mission of patient care.”

Case #7: Excerpts from final essay – Mr. Tattle

- “I knew immediately after the confrontation with my co-worker that my actions had been inappropriately timed and non-productive.”
- “However, I was completely blinded by anger and incredulity of the accusation, that my emotions took over and the resulting infraction occurred. And frankly, I was tired of being treated like a lesser-than leper by my co-worker.”
- “I should have never attempted that conversation in the clinic and instead reached out to our department manager or another mediator first. However, I was determined to make the situation “better” and to prove my innocence.”
- “The situation could have been avoided with better intervention from the hospital about the false accusations and toxic communication of my co-worker.”

The rest of the story

Ms. Avenge

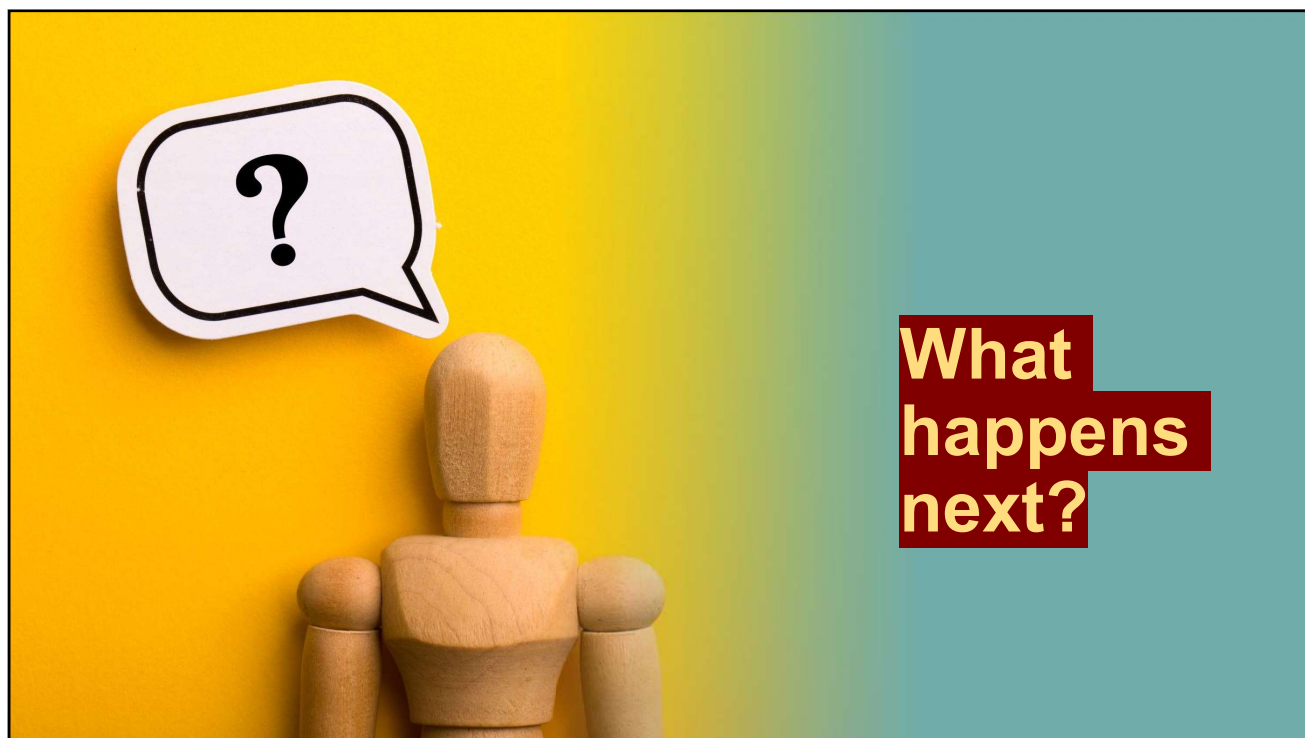
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PASS

Mr. Tattle

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FAIL



Peer Review Committee Action/Recommendations

FPPE or Performance Improvement Plan	Patient selection issue?	Mandatory consultation
	Harassment?	Monthly meetings with CMO and CNO
	Unprofessional documentation?	Retroactive chart review
	HIPAA violation?	Training and monitoring
	Notice for Physician	Next violation goes directly to MEC for investigation

Summary

- Professionalism, ethics and boundaries issues do occur
- Bylaws and policies should include a code of conduct
- Medical Staff and employees should be trained on the code of conduct and reporting system
- The code of conduct should be enforced consistently and fairly
- These issues should be investigated and addressed in a timely manner, regardless of the prestige or seniority of the person involved
- Medical staff professionals should be familiar with the types of intervention available and able to guide their medical staff leaders

Stump the Experts

Let's discuss the cases that you are struggling with now...

Disclaimer: Our responses are not meant to be considered formal or legal advice... and we don't guarantee we will have the answer!



Thank You!

Feel free to contact us if
you have any
questions!

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