

IMPROVING CARE

COPING WITH HARASSMENT AND DISCRIMINATION IN HEALTH CARE: A PRIMER FOR LEADERSHIP

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Introduction

Discrimination and harassment in the workplace are not rare phenomena in the U.S. healthcare industry where more than 60% of the surveyed physicians (primarily women, racial minorities, and international medical graduates) report experiencing workplace discrimination¹. For example, 33% of female clinician researchers report sexual harassment at work², 15% of LGBTQ physicians report harassment by colleagues and denial of patient referrals³ and more than 25% of physicians (mostly belonging to racial minorities) report quitting at least one job during their careers due to workplace discrimination⁴. Statistics in other healthcare professions are not encouraging either, with at least 50% of nurses reporting verbal abuse from co-workers⁵. In this article, we review definitions of commonly used terms, current laws, and recommendations for healthcare leaders to effectively manage incidents of peer discrimination and harassment and promote a culture of collegiality and healthy workplace.

Commonly Used Terms in This Article

1. **Workplace violence:** Any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at work. Worker-on-worker violence includes violence by coworkers, and includes bullying (repeated, health-harming mistreatment of a person); verbal or emotional abuse; and physical violence (including homicide). (The Centers for Disease Control and Prevention and the Occupational Safety Health administration).

2. **Disruptive behavior (by Physicians):** A style of interaction with others, including hospital personnel, patients, and family members, that interferes with patient care or adversely affects the health care team's ability to work effectively (American Medical Association).
3. **Workplace discrimination:** Any workplace action, such as hiring, firing, demoting, and promoting based on a prejudice of some kind that results in the unfair treatment of employees (HR Hero).
4. **Harassment:** A form of workplace discrimination, which includes an unwelcome conduct based on race, color, religion, sex (including pregnancy), sexual/gender identity, national origin, culture, age, disability, or genetic information. It may include verbal comments or other verbal or physical conduct; or written content as workplace graffiti; posting, e-mailing, or circulating demeaning or offensive pictures, cartoons or other materials in the workplace. (The Equal Employment Opportunity Commission [EEOC])
5. **Sexual harassment:** A form of harassment based on sex, which includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. (EEOC)

Legal Challenges

Workplace discrimination and harassment violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the

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Americans with Disabilities Act of 1990, and the Immigration Reform and Control Act of 1986. However, victims of such incidents face many legal challenges. For example, an employer may not be covered by EEOC laws in cases where the victim is an independent contractor (locum physician) or in a solo/small group practice (based on total number of employees). Also despite the EEOC interpretation of the Title VII of the Civil Rights Act of 1964 to cover sexual orientation and gender identity-based employment discrimination, there is no federal statute that explicitly addresses employment discrimination based on sexual orientation or gender identity. Only 20 states have statutes that protect against discrimination based on both sexual orientation and gender identity in employment, and only 3 states have laws on workplace bullying. Individual state medical boards have variable definitions of unprofessional conduct, and may therefore not be able to entertain complaints other than those of sexual misconduct or practicing under influence (alcohol, drugs).

Scenario

An openly gay physician has been working in a multi-specialty group practice for more than a year. He gets along well with his colleagues. However, he has noted that one of his colleagues who generally shares jokes in the lunch room, has been telling crude jokes targeting the LGBTQ community when he walks into the lunch room.

How Administration Should Respond to This Situation

Employers are legally required to look into complaints of workplace harassment/discrimination and engage in a prompt and thorough investigation. A few tips for the administration, compiled from guidelines by Society of Human Resource Management, U.S. Department of

Labor, and HR Hero, include the following:

1. Be familiar with EEOC guidelines;
2. Develop adequate documentation of the events;
3. If you are a supervisor who gets a report of an incident of harassment or discrimination, do not begin the investigation unless you are designated to do so by your employer. Report the incident immediately to the human resources department (HR) or the person assigned to investigate such complaints;
4. Interview the victim, respondent (perpetrator) and all potential witnesses (bystanders);
5. Explain the seriousness of the complaint, the employer’s sexual harassment policy and investigation procedures to the complainant and the respondent;
6. Notify the police if criminal activities are alleged;
7. Take interim remedial measures during the investigation;
8. Take steps to avoid retaliation;
9. Explain to the victim that full confidentiality may not be feasible during an investigation, assure of the policy prohibiting retaliation and advise to report any retaliation to a supervisor or HR;
10. Avoid prejudging complaints;
11. Submit a written report summarizing the results of the investigation and making recommendations to designated company officials;
12. Notify the complainant and the respondent of any corrective actions planned; and
13. Develop a standardized process to ensure that like cases are treated alike, regardless of the relative stature of the parties involved.

How the Leadership Should Respond to Avoid Such Situations in Future

The following tips have been compiled from Employer’s Guide: Move

Beyond Compliance, published by the AAUW:

1. Solicit input from a diverse and an inter-professional team to create well-defined policies that include examples of the prohibited behaviors, reduce fear of retaliation and explain disciplinary actions. Incorporate these into the employee handbook, and regularly train employees with the content using different methods.
2. Create a complaint procedure that identifies HR professionals designated to document and investigate complaints including harassment and bullying. Explain the investigation process and offer examples of proportionate corrective actions that may result at the conclusion of an investigation.
3. Conduct regular, anonymous climate surveys to ascertain the existing climate of inclusion and identify potential areas for growth.
4. Empower bystanders by providing trainings that impart skills needed to intervene and report harassing behavior.
5. Require leadership at all levels to exemplify a culture that is inclusive and values employees.
6. Educate all team members on appropriate professional behaviors consistent with the organization’s code of conduct, and hold them accountable for modeling the desirable behaviors.

Conclusion

Workplace harassment and violence are fairly prevalent in the healthcare industry, and can impact the overall health and wellbeing of healthcare providers, leading to low job satisfaction and increased job turnover. While victims and witnesses of such incidents need to be empowered to facilitate reporting of these events,

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leadership at healthcare organizations should work with their employees to adopt policies indicating that such behaviors are unacceptable. In the next article in the series, we will discuss resources and best practices for healthcare providers who are victims of harassment and discrimination by co-workers at workplace.

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