

Legal update: Give Disruptive Docs the Boot

When it's time to fire bad behavior, follow the rules.

Mark Weiss, JD

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No one wants to work with a surgeon whose default setting is bad-mouthing or screaming at his staff, whose idea of "getting his point across" is throwing scalpels into the wall. Communication breaks down, imperiling patient care and satisfaction. Employees want to quit, or worse, to sue your facility for enabling a hostile work environment. If you care about your business, it's critical to protect it from the destruction that disruptive physicians cause. Let's review your recourse options.

Spell out what defines bad behavior

It's not enough to thoroughly vet the physicians you're recruiting to your medical staff and/or ownership group, and to regularly host training sessions on appropriate versus inappropriate behavior. You'll need to prepare a few contractual rules.

Your facility's organizational documents should clearly spell out grounds for the repurchase of physician-owners' equity in the event they fail to meet well-described standards of behavior. This termination of ownership rights should be disconnected from the notion of medical staff peer review, but your medical staff bylaws should also contain procedures to be followed in order to suspend or terminate a disruptive physician's privileges.

In accordance with Joint Commission standards, make certain that these bylaws define acceptable, inappropriate and disruptive behavior. The bylaws must describe the process and procedures for managing the latter two, addressing in particular the possibility of summary suspension. A facility may find it necessary to invoke either or both the repurchasing provision or the bylaw procedure as a remedy.

If the disruptive influence is an employee (since, let's face it, physicians don't hold a monopoly on bad attitudes), contractual compliance is likewise critical. Staff hired by way of written employment agreements are subject to its descriptions of behavioral standards as well as with- and without-cause termination provisions.

Those hired without formal employment agreements should have a written policy explaining their behavioral expectations built into the list of their job duties. Make it clear that a failure to act in accordance with these obligations is grounds for immediate termination, and that the policy does not change the status of their at-will employment.