

STRATEGIES FOR MANAGING PHYSICIAN HEALTH AND DISRUPTIVE CONDUCT

RACHEL REMALEY

LEEANNE MITCHELL

HORTY  SPRINGER

Jointly sponsored by the University of Pittsburgh School of Medicine
Center for Continuing Education in the Health Sciences and HortySpringer Seminars.

The University of Pittsburgh is an affirmative action, equal opportunity institution.

Topics

INTRODUCTION

Strategies for Managing Physician Health and Disruptive Conduct provides an engaging opportunity for hospital and medical staff leaders to cultivate a sophisticated understanding of the legal and practical complexities that come into play when the most difficult credentialing and peer review issues arise – specifically, those involving practitioner health, disruptive conduct, and conflicts of interest. By working through case studies and complex scenarios, this course will help participants navigate the landmines that can arise when health, conduct, and conflicts are at issue. Experienced faculty will guide participants to develop problem-management strategies that reduce legal risk, help colleagues, and, most importantly, protect patients.

The course is divided into three distinct topics that will be dissected at length, using case studies and real-life examples as the inspiration for discussion:

- Professional Conduct
- Physician Health
- Difficult Leadership Conflicts of Interests

PROFESSIONAL CONDUCT

Characteristics of the Disruptive Doctor

Strategies for Dealing with Persistent Conduct Issues

- An ounce of prevention is worth a pound of cure: How to follow up on red flags during credentialing – and avoid establishing a relationship with a known troublemaker
- The Professionalism Policy: The first step in setting expectations and developing culture
- The risk of treating all conduct issues like psychiatric issues
- The disruptive doctor as the modern day whistleblower
- Doctors who communicate with leadership only through their attorneys
- Inappropriate airing of quality complaints (newspaper, Joint Commission, government, etc.) Can you stop them? Can you respond to them?
- How to plan and implement a collegial intervention/conversation
- How to document a collegial intervention
- Personal codes of conduct and “In the Box” agreements
- Short-term suspensions and progressive steps

Sexual Harassment and Assault

- Quid pro quo and hostile work environment sexual harassment
- Borderline behavior: When conduct makes employees uncomfortable or raises eyebrows (and concerns of legal risk), but does not clearly fall within “harassment” – what to do?
- Allegations of improper touching
- What to do if a physician is charged by the medical board with having an inappropriate relationship with a patient or is arrested for a crime that causes concern (child molestation, sexual assault, rape, etc.)

PHYSICIAN HEALTH

Credentialing Physicians with Health Issues

- The applicability of the Americans with Disabilities Act
- Application language that reduces the risk of discrimination claims
- Obtaining health-related information from applicants
 - o “Bona fide offers of employment” – what are they and do they matter in the medical staff context?
 - o Can you request medical records or require a medical examination by a provider of your own choosing?
 - o What if the applicant or his lawyer will only authorize partial information to be released?

Managing Physician Health Issues

- Who should address matters involving physician health?
- Comprehensive medical exams and drug testing
- Can you require physicians to continually notify the hospital of all drugs taken? Can the hospital maintain a list of prohibited drugs (legal or not) during periods of patient care activities?
- Leaves of Absence and Reinstatement
- Family and Medical Leave Act (FMLA) implications when a physician requests leave (or reinstatement)
- Performance Improvement Plans (PIPs) for health issues

Keeping and Disclosing Health Information About Physicians

- How should health information be recorded and stored?
- Should health information be disclosed along with other peer review information, when providing a reference?

DIFFICULT LEADERSHIP & MEDICAL STAFF CULTURE DILEMMAS

Identifying and Managing Conflicts of Interest

- Identifying conflicts
- When to recuse
- Who is authorized to require recusal
- How to implement a recusal
- How to repair the peer review process if a conflict is identified after the fact

Misuse of Leadership Positions – and What to Do About It

- Executive sessions and the exclusion of hospital representatives from meetings of physicians. Is this legal? What are the risks?
- The risks of “frolic and detour.” Leaders should understand the scope of their duties and the personal risks of acting outside that scope

Giving References When You Don’t Have Anything Nice to Say

Faculty/Accreditation



RACHEL REMALEY

Ms. Remaley is a partner with the law firm of Horty, Springer & Mattern, P.C. in Pittsburgh, Pennsylvania. She has extensive experience working with hospitals and physician leaders to manage issues involving the clinical performance, professional conduct, and health of practitioners. In addition, she has assisted numerous hospitals and physician leaders with the development and revision of medical staff bylaws, credentialing policies and manuals, and other medical staff policies and procedures. A significant portion of Ms. Remaley's practice involves providing education to hospital and physician leaders. She frequently presents at hospital and medical staff retreats, as well as meetings of compliance, risk management, and medical staff service professionals. Ms. Remaley has served as a faculty member for HortySpringer's *Physician Employment Institute*, *The Credentialing Clinic* and *The Peer Review Clinic* and, along with LeeAnne Mitchell, currently leads *Strategies for Managing Physician Health and Disruptive Conduct*, providing next-level education for experienced leaders who are called upon to tackle some of the most difficult leadership dilemmas.



LEEANNE MITCHELL

Ms. Mitchell is a partner with the law firm of Horty, Springer & Mattern, P.C. in Pittsburgh, Pennsylvania and she is an Editor of *The Health Law Express*, a weekly e-newsletter on health law developments. She has worked extensively in medical staff matters, including advising hospitals and their medical staffs on medical staff bylaws, credentialing and peer review matters, and medical staff due process hearings. She also works with hospitals on matters related to institutional review boards and research-related compliance issues. She has served as a faculty member on the HortySpringer seminar *The Credentialing Clinic* and, along with Rachel Remaley, she currently leads the newest HortySpringer seminar, *Strategies for Managing Physician Health and Disruptive Conduct*. LeeAnne is a member of the American Health Lawyers Association, as well as the Allegheny County, Pennsylvania and American Bar Associations. She has served as a Community Member of the University of Pittsburgh Institutional Review Board since 2000 and is a member of the Board of Directors of the Carlynton School District.

PRESENTER DISCLOSURE STATEMENT

All individuals in a position to control the content of this education activity are required to disclose all relevant financial relationships with any proprietary entity producing, marketing, re-selling, or distributing health care goods or services, used on, or consumed by, patients.

Accreditation Statement

(Continuing Education Credit)

In support of improving patient care, this activity has been planned and implemented by the University of Pittsburgh and HortySpringer Seminars. The University of Pittsburgh is jointly accredited by the Accreditation Council for Continuing Medical Education (ACCME), the Accreditation Council for Pharmacy Education (ACPE), and the American Nurses Credentialing Center (ANCC), to provide continuing education for the healthcare team.

This activity is approved for the following credit: *AMA PRA Category 1 Credit™*. Other health care professionals will receive a certificate of attendance confirming the number of contact hours commensurate with the extent of participation in this activity.

The University of Pittsburgh designates this live activity for a maximum of 11.25 *AMA PRA Category 1 Credits™*. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

NAMSS Accreditation

This course has been approved for National Association of Medical Staff Services (NAMSS) continuing education credit. Accreditation of this educational content in no way implies endorsement or sponsorship by NAMSS. This program is hereby awarded 11 NAMSS continuing education credits.

WHO SHOULD ATTEND?

- Board Members (particularly those serving on a quality or credentialing subcommittee)
- Hospital CEOs
- Directors and Medical Directors of Hospital-Affiliated Physician Groups
- CMOs
- Chiefs of Staff
- Department Chiefs
- Committee Chairs (e.g., MEC, Credentials Committee, Peer Review Committee)
- Medical Staff Services Professionals
- Quality Professionals
- Risk Management Professionals
- In-House Counsel

Strategies for Managing Physician Health and Disruptive Conduct builds upon concepts taught in Horthy Springer's other medical staff leadership courses, by presenting complex leadership dilemmas and then asking registrants to work with the faculty to develop solutions.

Ideally, registrants of *Strategies for Managing Physician Health and Disruptive Conduct* will have already attended the Complete Course, Credentialing for Excellence, and/or Peer Review Clinic, though completion of those courses is not a prerequisite to registration.

To get the most benefit from the course, we recommend that registrants have at least a year of experience in a leadership position (for example, serving on the Board, as a committee member, as a department chair, or as a medical staff officer) and be ready to advance to the next level of leader training: complex problem solving (mimicking what leaders are asked to do on a day-to-day basis).

EDUCATIONAL INTENT

Strategies for Managing Physician Health and Disruptive Conduct provides an engaging opportunity for hospital and medical staff leaders to cultivate a sophisticated understanding of the legal and practical complexities that come into play when the most difficult credentialing and peer review issues arise – specifically, those involving practitioner health, disruptive conduct, and conflicts of interest.

By working through case studies and complex scenarios, this course will help participants navigate the land mines that can arise when health, conduct, and conflicts are at issue. Experienced faculty will guide participants to develop problem management strategies that reduce legal risk, help colleagues, and, most importantly, protect patients.

Participation by all individuals is encouraged. Advance notification of any special needs will help us provide better service.
Please notify us at least **two weeks** in advance of the program.

412-687-7677 • www.hortyspringer.com

Seminar Schedule

Day One

7:00 TO 8:00 AM –
Registration & Continental Breakfast
8:00 AM TO NOON – Seminar Session
9:45 TO 10:00 AM – Break
NOON – Day 1 Adjourns
5:30 TO 6:30 PM – Informal Reception

Day Two

7:00 TO 8:00 AM –
Continental Breakfast
8:00 AM TO NOON – Seminar Session
9:45 TO 10:00 AM – Break
NOON – Day 2 Adjourns

Day Three

7:00 TO 8:00 AM –
Continental Breakfast
8:00 AM TO NOON – Seminar Session
9:45 TO 10:00 AM – Break
NOON – Seminar Adjourns

Registration

\$1,595 Individual
\$4,950 for team of four
\$1,195 for each additional registrant after
a team of four registration

How to Register

(Registration form can be found online at
www.hortyspringer.com)

Fax 412-687-7692

Phone 412-687-7677

Mail HorthySpringer Seminars
20 Stanwix Street, Suite 405
Pittsburgh, PA 15222

Online www.hortyspringer.com

2021

UPCOMING NATIONAL SEMINARS — ON LOCATION

This schedule is subject to change.

September 19-21, 2021

Disney's Yacht and Beach Club Resort | Orlando

- The Complete Course for Medical Staff Leaders
- The Peer Review Clinic
- Credentialing for Excellence
- Strategies for Managing Physician Health and Disruptive Conduct

November 18-20, 2021

JW Marriott Desert Ridge Resort and Spa | Phoenix

- The Complete Course for Medical Staff Leaders
- The Peer Review Clinic
- Credentialing for Excellence
- Strategies for Managing Physician Health and Disruptive Conduct

ON LOCATION REGISTRATION 2021

Hospital Name: City: State:
Address: Zip Code:
Contact Person: Email:
Title: Phone:

PAYMENT

\$1,595 Individual; \$4,950 for a team of four, fifth registration is **FREE*** - \$1,195 for each additional registrant after the fifth registration

*Offer expires May 31, 2021. Limit 1 free registration per organization.

Pay by Credit Card: (HSME will contact you via phone for CC information.)

Check Enclosed: (Please make check payable to HSM Enterprises.)

Please invoice: (You will be sent an invoice within 10 days to the email listed above.)

How did you hear about this HortySpringer seminar?

E-Mail Marketing Brochure Colleague Other

ATTENDEE INFORMATION FORM 2021

(Please give full names and titles as you would like them to appear on name tags.)

Attendee #1 First: MI: Last:
Title: Degree:
*Email:
**This email address will receive pre and post course materials and will be used to access CME credits*
Seminar:

Attendee #2 First: MI: Last:
Title: Degree:
*Email:
**This email address will receive pre and post course materials and will be used to access CME credits*
Seminar:

Attendee #3 First: MI: Last:
Title: Degree:
*Email:
**This email address will receive pre and post course materials and will be used to access CME credits*
Seminar:

ATTENDEE INFORMATION FORM 2021 – PAGE 2

(Please give full names and titles as you would like them to appear on name tags.)

Attendee #4 First: MI: Last:

Title: Degree:

*Email:

**This email address will receive pre and post course materials and will be used to access CME credits*

Seminar:

Attendee #5 First: MI: Last:

Title: Degree:

*Email:

**This email address will receive pre and post course materials and will be used to access CME credits*

Seminar:

Attendee #6 First: MI: Last:

Title: Degree:

*Email:

**This email address will receive pre and post course materials and will be used to access CME credits*

Seminar:

Attendee #7 First: MI: Last:

Title: Degree:

*Email:

**This email address will receive pre and post course materials and will be used to access CME credits*

Seminar:

Attendee #8 First: MI: Last:

Title: Degree:

*Email:

**This email address will receive pre and post course materials and will be used to access CME credits*

Seminar:

Attendee #9 First: MI: Last:

Title: Degree:

*Email:

**This email address will receive pre and post course materials and will be used to access CME credits*

Seminar:

Please fill out a second form if additional attendee information is needed

Fax: 412-687-7692