



## THE JOINT COMMISSION REQUIRES PROCESS TO ADDRESS DISRUPTIVE BEHAVIOR

As of January 1, 2009, The Joint Commission is requiring hospitals, nursing homes, home health agencies, laboratories, ambulatory care facilities, and behavioral health care facilities (collectively, "Health Care Facilities") to adopt processes that address disruptive and intimidating behavior by staff, including medical staff members and individuals in positions of power. Such processes must include a written code of conduct that defines appropriate, disruptive and inappropriate behaviors. The Joint Commission specifically emphasizes that disruptive and intimidating behavior has a negative impact on patient care and may increase medication errors, avoidable adverse events, the cost of care, staff turnover and the risk of malpractice actions. Therefore, The Joint Commission suggests that Health Care Facilities adopt a zero tolerance approach to behaviors that are egregiously intimidating and disruptive.

The expectations and rationale for these new elements of performance under the Leadership Chapter (LD.03.01.01, EP## 4 and 5) were described, at length, in a Joint Commission Sentinel Alert published in July 2008. Examples of intimidating and disruptive behaviors given in the Sentinel Alert include both overt and passive behaviors such as: (1) verbal outbursts and physical threats; (2) refusing to perform assigned tasks; (3) quietly exhibiting uncooperative attitudes during routine activities; (4) reluctance or refusal to answer questions, return phone calls or pages; (5) condescending language or voice intonation; and (6) impatience with questions. The Joint Commission also emphasized that, although the interactions between physicians and nurses are most often targeted as the most likely source for disruptive behavior, studies and surveys have identified that disruptive and intimidating behavior occurs amongst all levels of staff including pharmacists, therapists, support staff and administration. Therefore, the processes implemented by Health Care Facilities must apply to all staff members.

Further included in the Sentinel Alert were 11 steps that The Joint Commission suggests when developing processes to address disruptive behavior. These include, among other things, staff education regarding appropriate behavior, documentation of attempts to address intimidating and disruptive behavior, and written policies (including revisions to medical staff bylaws) that address issues such as non-retaliation, addressing patient observers, and initiation of disciplinary actions.

In addition to meeting The Joint Commission expectations when preparing processes and codes of conduct to address disruptive and intimidating behaviors, Health Care Facilities must be sure to consider and appropriately address other laws and issues such as peer review confidentiality protections, professional reporting obligations, requirements to address impaired practitioners, Americans with Disability Act prohibitions, and union contracts, if applicable. For example, if committees are established to address disruptive behaviors, the committees should be structured so the Health Care Facility can avail itself of the quality assurance and peer review protections that may be available under the New York Public Health and Education Laws.

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To the extent that you have any questions, please contact your regular GWT attorney.

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