
Sutter East Bay Medical Group

Peer Review Training

March 1, 2025

Charles Chulack

Horty, Springer & Mattern, P.C.

Jointly sponsored by the University of Pittsburgh School of Medicine
Center for continuing education in the health and science and HortySpringer Seminars

AGENDA

8:30 to 9:30 a.m. **Introduction & The Basics of Outpatient Peer Review**

9:30 to 10:45 a.m. **Conducting an Effective Review of Clinical Concerns**

- Appropriate triggers and case review forms
- Individual reviewer documentation and reporting to the Peer Review Committee
- Tone and content of communication with practitioners being reviewed
- Tips and tools for collegial counseling

10:45 to 11:00 a.m. **BREAK**

11:00 a.m. to Noon **Addressing Health and Behavior in an Outpatient Setting**

- The scope of practitioner health issues
- Do we need to comply with employment laws (e.g., the Americans with Disabilities Act and the Age Discrimination in Employment Act) when addressing health issues?
- Classic characteristics of disruptive practitioners
- Examples of behaviors that undermine a culture of safety
- Best practices for addressing health and behavior concerns

Noon to 12:30 p.m. **Outpatient Peer Review Potpourri**

- Do we have any legal protections under state and federal law?
- Effectively sharing information with affiliated entities (e.g., hospitals) at which our employees provide clinical services
- Maintaining confidentiality
- Addressing issues through the peer review process vs. the employment process – pros and cons of each

Noon **Q&A and Adjournment**

Accreditation Statement

In support of improving patient care, this activity has been planned and implemented by the University of Pittsburgh and Harty Springer 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 2.75 AMA PRA Category 1 Credits™. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

Educational Intent

This program is designed for physicians who serve in Medical Staff leadership positions in hospitals. Upon completion of this program, participants should be able to identify common credentialing issues and develop best practices relating to initial appointment, reappointment, and clinical privileges. They should also be able to identify and manage the variety of peer review issues that confront them in their roles as physician leaders. Finally, participants should be able to define the legal responsibilities of Medical Staff leaders and the legal protections available to them.

Target Audience

- Medical Staff Officers
- Department Chiefs
- Credentials Committee Members
- MEC Members
- Bylaws Committee Members
- VPMAs, CMOs, and Medical Directors
- Medical Staff Services Professionals
- Quality/Performance Improvement Directors
- Hospital Management

CHARLES CHULACK
CChulack@HortySpringer.com

CHARLES J. CHULACK is a partner with the law firm of Horty, Springer & Mattern, P.C. in Pittsburgh, Pennsylvania, where his work is devoted exclusively to advising hospitals and physician leaders on a wide range of topics, including medical staff issues, medical staff bylaws and associated documents, compliance with federal and state law and regulations and accreditation standards, and employment matters. In addition, he represents hospitals in litigation on topics such as contractual disputes, physician hearing and appeal rights, and immunity under state and federal law.

Mr. Chulack is currently a faculty member for the HortySpringer seminar *The Peer Review Clinic* and was previously a faculty member for *Credentialing for Excellence*. He frequently provides individualized on-site and virtual educational programs on credentialing, privileging, peer review, professionalism, practitioner health, investigations, and other medical staff topics for hospitals and medical staffs across the country. He has done numerous presentations for legal organizations including the American Health Law Association and the Pennsylvania Bar Institute.

Mr. Chulack is an editor of the firm's *Health Law Express*, a weekly e-newsletter on the latest health law developments. Mr. Chulack also served as an editor for the fourth and fifth editions of the American Health Law Association *Peer Review Guidebook* and the first edition of the American Health Law Association *The Complete Medical Staff, Peer Review, and Hearing Guidebook*. He has published articles in Bloomberg's *Health Law Reporter*, *Duquesne Law Review*, and Allegheny County Bar Association's *Lawyer's Journal*.

Mr. Chulack is a member of the Allegheny County Bar Association and the American Health Law Association and is admitted to practice in front of the Pennsylvania Supreme Court and the United States District Court for the Western District of Pennsylvania.

Conflict of Interest Disclosure

No members of the planning committee, speakers, presenters, authors, content reviewers and/or anyone else in a position to control the content of this education activity have relevant financial relationships with any proprietary entity producing, marketing, re-selling, or distributing health care goods or services, used on, or consumed by, patients to disclose.

Disclaimer Statement

The information presented at this activity represents the views and opinions of the individual presenters, and does not constitute the opinion or endorsement of, or promotion by, the UPMC Center for Continuing Education in the Health Sciences, UPMC/University of Pittsburgh Medical Center or Affiliates and University of Pittsburgh School of Medicine. Reasonable efforts have been taken intending for educational subject matter to be presented in a balanced, unbiased fashion and in compliance with regulatory requirements. However, each program attendee must always use his/her own personal and professional judgment when considering further application of this information, particularly as it may relate to patient diagnostic or treatment decisions including, without limitation, FDA-approved uses and any off-label uses.

Sutter East Bay Medical Group

Sutter East Bay Medical Group

Peer Review Training

March 1, 2025

Charlie Chulack
Horty, Springer & Mattern, P.C.

1

Welcome to the Brave New World!

Ambulatory Peer Review



2



McKinsey
& Company

Healthcare Solutions & Services

[Our Insights](#) [How We Help Clients](#) [Our People](#) [Contact Us](#)

3

Ambulatory

The growing segment of ambulatory care comprises one-third of provider revenues in the United States, representing about \$750 billion dollars.^[1] A number of different services are embedded within ambulatory care, including physician practices, outpatient behavioral-health centers, ambulatory-surgery centers, and urgent-care centers, among many others. Studies have shown that ambulatory-care settings can provide advantages for patients, such as shorter average visit length—25 percent shorter for ambulatory-care services than comparable hospital outpatient visits—and lower complication rates, such as 1.1 percent total hip arthroplasty complication rates in ambulatory-care services versus 5.2 percent in hospital outpatient departments.^[1]

Even when COVID-19 becomes endemic, as is likely to be the case, healthcare delivery in the United States will continue to transform rapidly. Stakeholders must prepare as policy direction, reimbursement, and investor appetite move care delivery in distinct directions. McKinsey's 14th annual healthcare conference, held in September 2021 in Chicago, explored the next wave of industry evolution and how healthcare organizations must innovate to thrive. To

3

Sutter East Bay Medical Group

McKinsey
& Company

Our Insights | How We Help Clients | Our People | Contact Us



Walking out of the hospital: The continued

Ambulatory care is one of the fastest-growing and highest-margin segments of the healthcare industry. Analyzing variations in Commercial claims data and doctor surveys shows that significant growth potential remains. While many health systems have benefited from investing ahead of this trend, significant opportunity remains to be captured.


Commercial claims data and doctor surveys shows that significant growth potential remains. While many health systems have benefited from investing ahead of this trend, significant opportunity remains to be captured.

4

Why the Growth?

- Innovation and technology
- Patient demand
- Payor pressure
- Provider opportunity for shared ownership models

And this growth is just beginning.



5

PRESS RELEASES

AMA examines decade of change in physician

Physicians employed directly by hospitals – 9.6%

Physicians employed by practices owned by hospitals or health systems – 31.3%

ownership and... are sold to hospitals or... According to the analysis, four of five physicians... from hundreds on insurance

6

Sutter East Bay Medical Group

Why Ambulatory Peer Review?

- More care is being provided in these settings
- You have no idea if it is good care!
- Allows for sharing of peer review information (check state law)



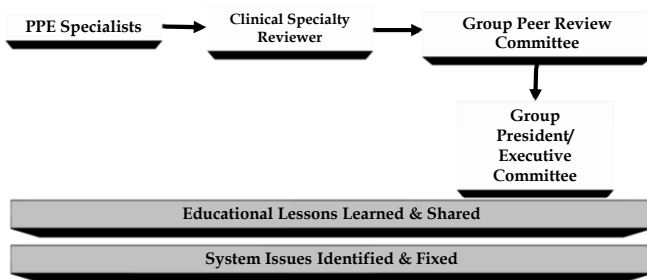
7

What does ambulatory peer review look like?



8

Ambulatory Peer Review



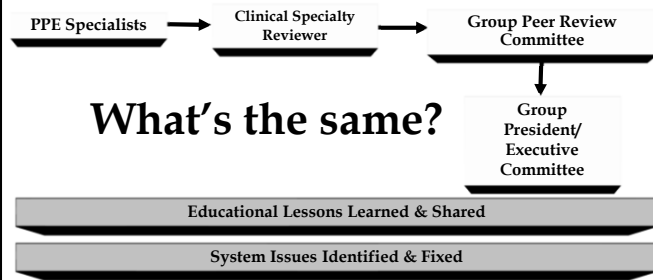
9

Sutter East Bay Medical Group

What is the same and what is different about this process in the ambulatory world?

10

Ambulatory Peer Review



11

PPE Specialists

Functions

- Log case in to "Central Repository"
- Initial review
 - Is physician review required?
- Close case, send "informational letter," or refer the case for further review

12

Sutter East Bay Medical Group

PPE Specialists

What's Different?

13

What Triggers a review?

- Less focus on reviewing "cases" and more focus on "outliers"
 - Admissions after office visit with same/similar diagnosis
 - Readmissions after discharge
 - Vaccination and screening rates
 - On-time case starts

14

Ambulatory Peer Review

PPE Specialists → Clinical Specialty Reviewer → Group Peer Review Committee

What's the same?

↓
Group President/
Executive Committee

Educational Lessons Learned & Shared

System Issues Identified & Fixed

15

Sutter East Bay Medical Group

Clinical Specialty Reviewer

*At this point
in process*

↓

**Need appropriate
specialty review
and expertise**

16

Clinical Specialty Reviewer

What's Different?

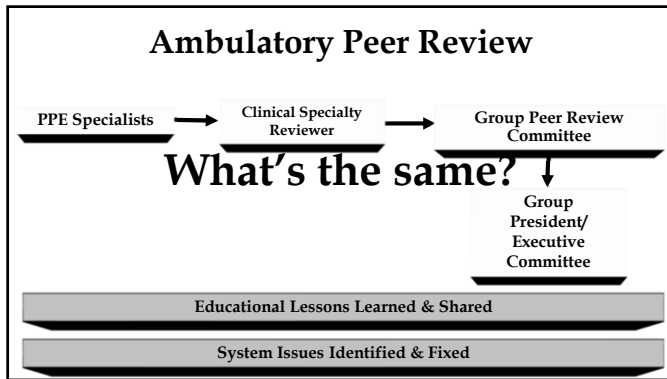
17

**Clinical Specialty
Reviewer Options**

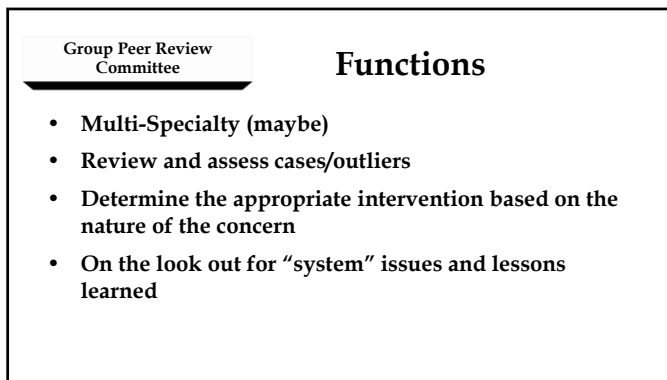
- **Less structural resources to support multiple specialty committees** *(may also not be a need if a single specialty group)*
 - Likely going to be an individual member of the Group Peer Review Committee (with option to use Assigned Reviewer) acting on behalf of the Committee
 - Fact-finder only
- **Is their work peer review protected?**

18

Sutter East Bay Medical Group



19

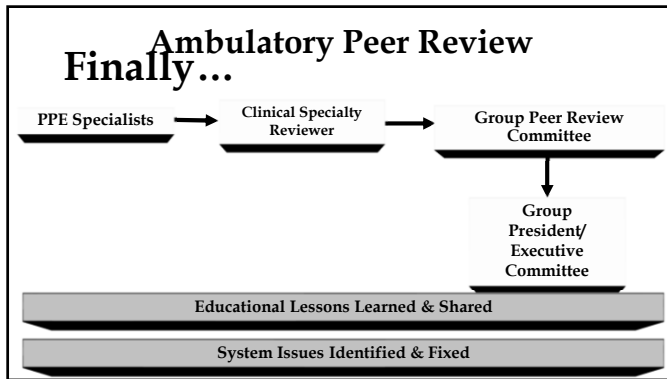


20



21

Sutter East Bay Medical Group



22

Group President/ Executive Committee

- This is not the Medical Staff
- Generally, no Hearings, no NPDB reports* (maybe state reporting obligations?)
- Group HR policies/contract will control

* Technically, could qualify as a "health care entity" under the HCQIA

23

Remember...

If the ambulatory setting is provider-based to the hospital, it will be overseen by the Medical Staff process.

24

Effective Peer Review of Clinical Concerns

25

The “peer review” world has
changed dramatically
—for the better!

Thinking!
Techniques!
Governing Documents!

26

Two Major Goals:
Patient Safety & Quality Care
and
Physician & APP Success!

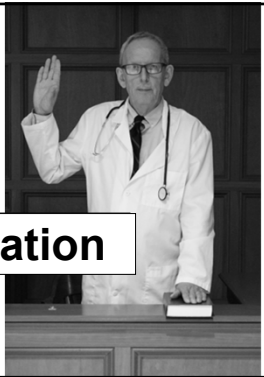


27

Common Obstacles to Effective Peer Review

28

Fear of litigation



29

Legal Protections for Peer Reviewers

- The Health Care Quality Improvement Act
- California State Peer Review Statute

30

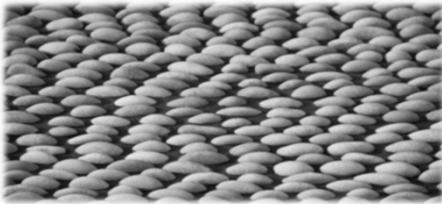
Sutter East Bay Medical Group

Inexperienced reviewers



31

Not Identifying Appropriate Cases for Review



32

Based on 20/20 hindsight



33

Sutter East Bay Medical Group



Not Being Aware of Options

34

**Leaders
lack of
necessary
tools.**



35

No opportunity for meaningful input



36

Sutter East Bay Medical Group

What are the costs of not doing peer review well?

The Human Factors...

- Patient injury
- Physician careers jeopardized
- Reputation and trust of community
- Employee morale
- Leadership burnout
- Distraction from performance improvement activities

37

So, What Works?

Clinical Quality Issues

38

#1

Constantly Reinforce the Three Main Goals of Modern Clinical Peer Review

39

Sutter East Bay Medical Group

Goal #1

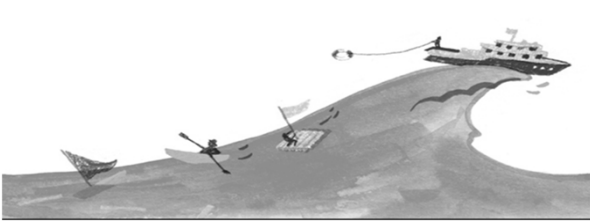
Practitioner-Specific Reviews that Focus on Education and Improvement

- Policy should emphasize input from colleagues, feedback, and practical, specific recommendations to promote improvement
- Many non-disciplinary tools available

40

Goal #2

Elevate Performance of EVERYONE in Group



41

Peer Review Should Be a Tool for the Best CME Ever

- Policies should include practices to identify "lessons learned" from reviews
- Share with relevant specialties

42

Sutter East Bay Medical Group

Goal #3 Improve "Systems" of Care



43

Fixing System/Process Issues

- Policies should include practices to identify "system/process" issues
- Issue referred to appropriate committee or person for resolution
- Issues stays on agenda of Peer Review Committee until notice of resolution is received

44

#2
**Collegial Efforts
and the
Progressive Steps
Continuum
Will Successfully Resolve
Almost All Issues!**

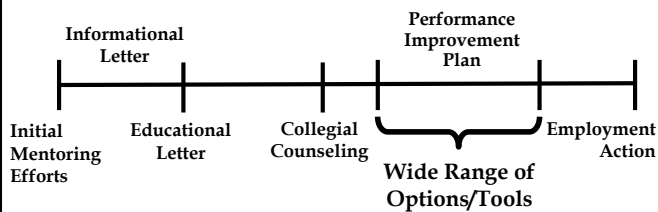
45

Sutter East Bay Medical Group

Use the
Least Restrictive Approach
That is Consistent With
Safe Care/Good Quality!

46

Progressive Steps Continuum



47

#3

**Describe PIP Options in
Policy - and Use Them!**

48

Sutter East Bay Medical Group

Multi-Specialty
Professional Practice
Evaluation Committee

Improvement Tools

- Educational letter
- Collegial Counseling
- Performance Improvement Plan
- Address through Employment Contract

49

Performance Improvement Plans

(options used individually or in combination)

- Additional education/CME
- Monitoring/retrospective chart review for the next X patients
- Procedure indications checklist
- Second opinions/consultations
- Concurrent proctoring

50

Performance Improvement Plans

(options used individually or in combination)

- Participation in formal evaluation and assessment program
- Additional training/simulation
- "Other"

51

#4

**No Improvement Efforts...
Even Low Level Ones...
*Without First Seeking Input!***

52

General Rules

- No improvement tool (Educational Letter, Collegial Counseling, PIP) until practitioner is notified of specific concerns and provides input

53

**How does the practitioner
provide input?**

- Written explanation of care,
responding to specific questions

54

Sutter East Bay Medical Group

**Reviewing Concerns is an
Acquired Skill - Empower
Reviewers with Training and
an Effective Review Form**

55

But first...

56

What Triggers a review?

- Less focus on reviewing “cases” and more focus on “outliers”
 - Admissions after office visit with same/similar diagnosis
 - Readmissions after discharge
 - Vaccination and screening rates
 - On-time case starts

57

Sutter East Bay Medical Group

Reviewing concerns an acquired skill -
provide guidance and support to
all clinical reviewers.

A little training goes a long way!

58

Reviewers

Training!

- Role in the overall process
- How to obtain additional information or input from practitioner or others, if necessary
- How to appropriately characterize findings
- How to effectively present a case to the Peer Review Committee
- Time frames for review, confidentiality agreements and tips, etc.

59

**Empower Reviewers with
Effective Review Forms!**

60

Sutter East Bay Medical Group

Reviewers

Review Form Best Practices

FOUNDATION:

- Utilize a standardized, carefully-drafted *REVIEW FORM* for *ALL* reviews and fact-finding!
- Must be tailored to *YOUR* process!

61

Case Review Form

- *Instructions*
- *Part 1: Patient Demographics and Details*
- *Part 2: Obtaining Input from Practitioner*
- *Part 3: Assessment of Care and Determination*

62

Case Review Form

- *Instructions*
- *Part 1: Patient Demographics and Details*
- *Part 2: Obtaining Input from Practitioner*
- *Part 3: Assessment of Care and Determination*

63

© HortySpringer Seminars

CONFIDENTIAL REVIEW DOCUMENT INSTRUCTION FOR CLINICAL SPECIALTY REVIEWERS ("CSR")	
MRN #: _____ DATE: _____ Date Assigned to CSR: _____	BURBANK: The CSR is to return this form <u>within 14 days</u> of: <i>(a)</i> Being requested to conduct this review, provided no time was identified that necessitate obtaining input from the Practitioner where care is being reviewed; OR <i>(ii)</i> The CSR receipt of any input that has been requested from the Practitioner.
MRN #: _____ Date Assigned to CSR: _____	
DUE DATE: The CSR is to return this form <u>within 14 days</u> of: <i>(i)</i> Being requested to conduct this review, provided no issues are identified that necessitate obtaining input from the Practitioner where care is being reviewed; OR <i>(ii)</i> The CSR's receipt of any input that has been requested from the Practitioner.	
<p style="text-align: center;">STEP 1 ROLE OF PPE Specialists</p>	<p>The PPE Specialists complete PART 1 of this form (demographic data and case details) and facilitate the information-gathering process for the CSR (e.g., obtain relevant medical record documentation, input from others involved in the care of the patient, or any other information that may be requested by the CSR).</p> <hr/> <p>Step 1A – Obtain History The CSR will complete the "Assessment of Care" and "Observational" sections in EDELT and be responsible to conduct a COT meeting to discuss the CSR's findings and concerns regarding the all cases referred to the CSR that meet the "Observational" criteria.</p> <p>Step 1B – Obtain Input Ask the from the Practitioner-specific issues related those, the CSR will complete "Patient History" section, which pertains to "Known Events" and to be shared and "Other Factors," whether as identified at part of the review.</p> <p>Epidemiology and Confidentiality All have significant personal legal practices when conducting a review, for most situations confidentiality. This form and only the confidential information is strictly confidential and privileged under (HIPAA), law. It is not to be shared, stored, or discussed with any unauthorized personnel. <small>This document is confidential and contains sensitive information. It is not to be released without the written consent of the provider.</small></p>

CONFIDENTIAL PERFORM DOCUMENT		PPS-2
INTERVENTION SPECIAL CLINICAL SPECIALTY REVIEWERS ("CSR's")		
SIGN IN _____	Date Assigned to CSR: _____	
<p>CSR DATE: The CSR is to return this form within 14 days of _____</p> <p><i>or, Being requested to conduct this review, provided no review is completed, the reviewers obtaining input from the Practitioner when care is being reviewed.</i></p> <p><i>The CSR is requested to sign input that has been requested from the Practitioner.</i></p>		
STEP 1 Role of PPE	<p>The PPE facilitates completion TABLE 1 of this form (demographic data and case details) and facilitates the completion of TABLE 2 of this form. In this CSR, the PPE facilitates an initial second assessment, input data which is located in the case of the _____.</p>	
<p>The CSR will either:</p> <p>(i) independently review the care provided; or</p> <p>(ii) request the assistance of an Assigned Reviewer ("AR"), who will either consult with the CSR performing the assessment or conduct the review independently and document his/her clinical findings on the CSR Case Review Form.</p>		
<p>STEP 2 CSR Performs Review Personally or Assigns Review</p>		
<p>In either case, the CSR will then complete the applicable PART 2 of this form and submit it to the PPE Specialist, attaching any form that may have been completed by an AR.</p>		
STEP 3 Review of Review	<p><i>If any Practitioner or Reviewer of Reviewer (ROR) is assigned, the CSR shall submit the ROR to the PPE Specialist for review. The ROR shall be completed by the PPE Specialist and the ROR shall be attached to this form in the event of a review of review.</i></p>	
STEP 4 Review of Review	<p>The CSR shall complete the "Assessment of Care" and "Therapeutic Services" sections in TABLE 1 and may be requested to attend a PPE meeting on the CSR's findings and recommendations. If the CSR does not attend the PPE meeting, the CSR shall submit the "Assessment of Care" section in TABLE 1 to the PPE Specialist.</p>	
STEP 5 Review of Review	<p>Aside from the Practitioner's signed review, the CSR will complete the External Review and Review Form. The CSR will be required to sign the External Review and Review Form and submit it to the PPE Specialist.</p>	
<p>Legal Protection and Confidentiality</p> <p>All data contained herein are confidential information. The CSR shall maintain confidentiality of all data contained herein and shall not disclose any information contained herein to any third party without the written consent of the PPE Specialist.</p>		

CONFIDENTIAL PERU DOCUMENT INSTRUCTIONS FOR CLINICAL SPECIALTY REVIEWERS (CSR's)		000-00000000
<p>NAME _____ Date Assigned to CSR _____</p> <p>CSR ID# DATE: The CSR is to return this form within 14 days of _____</p> <p>Being requested to conduct this review, provided no issues are identified that necessitate obtaining input from the Practitioner whose care is being reviewed. (00)</p> <p>1a) The CSR is to record any input that has been requested from the Practitioner _____</p>		
<p>STEP 1 Role of PPE Specialty</p>	<p>The PPE Specialty completes TABLE 1 of this form (diagnostic data and case details) and facilitates the information gathering process for the CSR. In addition, the PPE Specialty medical record documentation, input from others involved in the care of the patient, or any other information that is requested by the CSR.</p>	
<p>STEP 3 If No Questions or Issues Are Identified (or Exemplary Care Was Provided)</p>	<p>If no questions or issues are identified during the initial review, the CSR shall document this finding in PART 2.3 of the form where indicated, then (c) complete the "Assessment of Care" and "Determination" sections in PART 3 of this form.</p> <p>If the CSR believes that exemplary care was provided and should be recognized, this shall also be documented in the "Determination" section in PART 3.</p>	
<p>STEP 4 If any Question or Issue is Identified, CSR Must Input "Input"</p>	<p>If any questions or issues are identified during the initial review, the CSR shall document the information in the "Questions/Issues" section in TABLE 1 of this form. The Practitioner will be contacted in the form of an electronic communication in TABLE 1 of this form.</p>	
<p>STEP 5 Exemplary Care and/or Best Practice</p>	<p>The CSR shall complete the "Assessment of Care" and "Determination" sections in TABLE 1 and may be requested to attend a CP meeting to discuss the CSR's findings and receive advisory input. If a case referred to in the CP meeting should be included in the "Exemplary Care" or "Best Practice" section in TABLE 1 of this form.</p>	
<p>STEP 6 Exemplary Care and Best Practice</p>	<p>Aside from the Practitioner's review, input from others, the CSR shall complete the "Assessment of Care" and "Determination" sections in TABLE 1 and may be requested to attend a CP meeting to discuss the CSR's findings and receive advisory input. If a case referred to in the CP meeting should be included in the "Exemplary Care" or "Best Practice" section in TABLE 1 of this form.</p>	
<p>Legal Protection and Confidentiality</p> <p>It is the responsibility of the reviewer to ensure that all information is handled in a confidential manner. This form and all related documentation is strictly confidential and privileged (HIPAA). Use it as is. Do not share, alter, or discuss with any unauthorized personnel.</p> <p>3 of 3 <small> Copyright © 2014 by the American Society of Clinical Pathologists All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage or retrieval system, without prior written permission from the American Society of Clinical Pathologists. </small> </p>		

Sutter East Bay Medical Group

<p align="center">CONFIDENTIAL PEER REVIEW DOCUMENT INSTRUCTIONS FOR CLINICAL SPECIALTY REVIEWERS (CSR'S)</p> <p>MEET # _____ Date Assigned to CSR: _____</p> <p>DEADLINE: The CSR is to return this form within 14 days of:</p> <p>(i) Being requested to conduct this review, provided no issues are identified that necessitate obtaining input from the Practitioner whose care is being reviewed. OR</p> <p>(ii) The CSR's receipt of any input that has been requested from the Practitioner.</p>	
<p>STEP 1 Role of PPE Speculation</p>	<p>The PPE Speculation completes TABLE 2 of this form (demographic data and case details) and facilitates the information gathering process for the CSR (i.e., obtain relevant medical record documentation, input from others involved in the care of the patient, or any other information that may be requested by the CSR).</p> <p>The CSR will either:</p> <p>(i) independently review the case provided, or</p>
<p>STEP 4 If Any Questions or Issues Are Identified, CSR Obtains Input from Practitioner</p> <p>If any questions or issues are identified during the initial review, the CSR shall obtain the Practitioner's input prior to concluding the review. The input obtained from the Practitioner will be attached to this form or otherwise documented in PART 2 of this form.</p>	
<p>Was Provided</p> <p>If the CSR believes that complete care was provided and should be recognized, this shall also be documented in the "Determination" section in TABLE 3.</p> <p>STEP 4 If Any Questions or Issues Are Identified, CSR Obtains Input from Practitioner</p> <p>If any questions or issues are identified during the initial review, the CSR shall obtain the Practitioner's input prior to concluding the review. The input obtained from the Practitioner will be attached to this form or otherwise documented in TABLE 2 of this form.</p> <p>STEP 5 Assessment of Care and Determination</p> <p>The CSR shall complete the "Assessment of Care" and "Determination" sections in TABLE 3 and may be requested to attend a CPE meeting to discuss the CSR's findings and answer questions. For all cases referred to it, the CSR shall record its "Determination" in TABLE 3.</p> <p>STEP 6 Lessons Learned and System Issues</p> <p>Aside from the Practitioner-specific review outlined above, the CSR will complete TABLE 4 of this form, which pertains to "Lessons Learned" and to be shared and "System Issues," if either are identified as part of this review.</p> <p>Legal Privileges and Confidentiality:</p> <p>CSRs have significant personal legal protection when conducting a review. The most important confidentiality, this form and any related documentation is strictly confidential and privileged under (CCP) law. It is not to be copied, shared, or discussed with any unauthorized personnel.</p> <p align="center"><small>This document is a confidential and privileged legal document. It is not to be copied, shared, or discussed with any unauthorized personnel. Page 1 of 1</small></p>	

67

<p align="center">CONFIDENTIAL PEER REVIEW DOCUMENT INSTRUCTIONS FOR CLINICAL SPECIALTY REVIEWERS (CSR'S)</p> <p>MEET # _____ Date Assigned to CSR: _____</p> <p>DEADLINE: The CSR is to return this form within 14 days of:</p> <p>(i) Being requested to conduct this review, provided no issues are identified that necessitate obtaining input from the Practitioner whose care is being reviewed. OR</p> <p>(ii) The CSR's receipt of any input that has been requested from the Practitioner.</p>	
<p>STEP 1 Role of PPE Speculation</p>	<p>The PPE Speculation completes TABLE 2 of this form (demographic data and case details) and facilitates the information gathering process for the CSR (i.e., obtain relevant medical record documentation, input from others involved in the care of the patient, or any other information that may be requested by the CSR).</p> <p>The CSR will either:</p> <p>(i) independently review the case provided, or</p>
<p>STEP 5 Assessment of Care and Case Determination</p> <p>The CSR shall complete the "Assessment of Care" and "Determination" sections in PART 3 and may be requested to attend a CPE meeting to discuss the CSR's findings and answer questions. For all cases referred to it, the CPE shall record its "Determination" in PART 3.</p> <p>Was Provided</p> <p>If the CSR believes that complete care was provided and should be recognized, this shall also be documented in the "Determination" section in TABLE 3.</p> <p>STEP 4 If Any Questions or Issues Are Identified, CSR Obtains Input from Practitioner</p> <p>If any questions or issues are identified during the initial review, the CSR shall obtain the Practitioner's input prior to concluding the review. The input obtained from the Practitioner will be attached to this form or otherwise documented in TABLE 2 of this form.</p> <p>STEP 5 Assessment of Care and Determination</p> <p>The CSR shall complete the "Assessment of Care" and "Determination" sections in TABLE 3 and may be requested to attend a CPE meeting to discuss the CSR's findings and answer questions. For all cases referred to it, the CSR shall record its "Determination" in TABLE 3.</p> <p>STEP 6 Lessons Learned and System Issues</p> <p>Aside from the Practitioner-specific review outlined above, the CSR will complete TABLE 4 of this form, which pertains to "Lessons Learned" and to be shared and "System Issues," if either are identified as part of this review.</p> <p>Legal Privileges and Confidentiality:</p> <p>CSRs have significant personal legal protection when conducting a review. The most important confidentiality, this form and any related documentation is strictly confidential and privileged under (CCP) law. It is not to be copied, shared, or discussed with any unauthorized personnel.</p> <p align="center"><small>This document is a confidential and privileged legal document. It is not to be copied, shared, or discussed with any unauthorized personnel. Page 1 of 1</small></p>	

68

<p align="center">CONFIDENTIAL PEER REVIEW DOCUMENT INSTRUCTIONS FOR CLINICAL SPECIALTY REVIEWERS (CSR'S)</p> <p>MEET # _____ Date Assigned to CSR: _____</p> <p>DEADLINE: The CSR is to return this form within 14 days of:</p> <p>(i) Being requested to conduct this review, provided no issues are identified that necessitate obtaining input from the Practitioner whose care is being reviewed. OR</p> <p>(ii) The CSR's receipt of any input that has been requested from the Practitioner.</p>	
<p>STEP 1 Role of PPE Speculation</p>	<p>The PPE Speculation completes TABLE 2 of this form (demographic data and case details) and facilitates the information gathering process for the CSR (i.e., obtain relevant medical record documentation, input from others involved in the care of the patient, or any other information that may be requested by the CSR).</p> <p>The CSR will either:</p> <p>(i) independently review the case provided, or</p>
<p>STEP 6 Lessons Learned and System Issues</p> <p>Aside from the Practitioner-specific review outlined above, the CSR will complete PART 4 of this form, which pertains to "Lessons Learned" and to be shared and "System Issues," if either are identified as part of this review.</p> <p>Was Provided</p> <p>If the CSR believes that complete care was provided and should be recognized, this shall also be documented in the "Determination" section in TABLE 3.</p> <p>STEP 4 If Any Questions or Issues Are Identified, CSR Obtains Input from Practitioner</p> <p>If any questions or issues are identified during the initial review, the CSR shall obtain the Practitioner's input prior to concluding the review. The input obtained from the Practitioner will be attached to this form or otherwise documented in TABLE 2 of this form.</p> <p>STEP 5 Assessment of Care and Determination</p> <p>The CSR shall complete the "Assessment of Care" and "Determination" sections in TABLE 3 and may be requested to attend a CPE meeting to discuss the CSR's findings and answer questions. For all cases referred to it, the CSR shall record its "Determination" in TABLE 3.</p> <p>STEP 6 Lessons Learned and System Issues</p> <p>Aside from the Practitioner-specific review outlined above, the CSR will complete TABLE 4 of this form, which pertains to "Lessons Learned" and to be shared and "System Issues," if either are identified as part of this review.</p> <p>Legal Privileges and Confidentiality:</p> <p>CSRs have significant personal legal protection when conducting a review. The most important confidentiality, this form and any related documentation is strictly confidential and privileged under (CCP) law. It is not to be copied, shared, or discussed with any unauthorized personnel.</p> <p align="center"><small>This document is a confidential and privileged legal document. It is not to be copied, shared, or discussed with any unauthorized personnel. Page 1 of 1</small></p>	

69

Sutter East Bay Medical Group

CONFIDENTIAL PEER REVIEW DOCUMENT INSTRUCTIONS FOR CLINICAL SPECIALTY REVIEWERS (CSR's)	
SRN # _____	Date Assigned to CSR _____
DUE DATE: The CSR is to return this form within 14 days of:	
(a) Being requested to conduct this review, provided an adequate and identifiable that necessitate obtaining input from the Practitioner whose care is being reviewed; OR (b) The CSR's receipt of any report that has been requested from the Practitioner.	
STEP 1: Role of PPS Specialist The PPS Specialist completes TABLE 1 of this form (demographic data and case details) and facilitates the information gathering process for the CSR (e.g., obtain relevant medical record documentation, obtain data relevant to the case or the CSR's review, or any other information that may be requested by the CSR). The CSR will either: (a) independently review the case provided; or (b) assist the completion of the assigned review (CSR's who will either consult).	The PPS Specialist completes TABLE 1 of this form (demographic data and case details) and facilitates the information gathering process for the CSR (e.g., obtain relevant medical record documentation, obtain data relevant to the case or the CSR's review, or any other information that may be requested by the CSR). The CSR will either: (a) independently review the case provided; or (b) assist the completion of the assigned review (CSR's who will either consult).
Legal Protections and Confidentiality: CSRs have significant personal legal protections when conducting a review, but must maintain confidentiality. This form (and any related documentation) is strictly confidential and privileged under [state] law. It is not to be copied, shared, or discussed with any unauthorized personnel.	
STEP 2: Risk Potential If the CSR believes that compliance with any practice and standard is required, this shall also be documented in the "Observations" section in TABLE 2.	If any questions or issues are identified during the initial review, the CSR shall discuss the Practitioner's input prior to conducting the review. The report obtained from the Practitioner will be included in the form or otherwise documented in TABLE 2 or this form.
STEP 3: Assessment of Care and Determination The CSR shall complete the "Assessment of Care" and "Observations" sections in TABLE 2 and may be requested to attend a CPE meeting to discuss the CSR's findings and assist in the review. For all cases referred to a CPE, the CSR shall attend the "Observations" in TABLE 2.	The CSR shall complete the "Assessment of Care" and "Observations" sections in TABLE 2 and may be requested to attend a CPE meeting to discuss the CSR's findings and assist in the review. For all cases referred to a CPE, the CSR shall attend the "Observations" in TABLE 2.
STEP 4: Lessons Learned and System Issues Input from the Practitioner specifically review outlined above, the CSR will complete TABLE 3 of this form, which pertains to "Lessons Learned" and to be shared and System Issues. If other are identified as part of the review.	Input from the Practitioner specifically review outlined above, the CSR will complete TABLE 3 of this form, which pertains to "Lessons Learned" and to be shared and System Issues. If other are identified as part of the review.
Legal Protections and Confidentiality: CSRs have significant personal legal protections when conducting a review, but must maintain confidentiality. This form (and any related documentation) is strictly confidential and privileged under [state] law. It is not to be copied, shared, or discussed with any unauthorized personnel.	

70

Case Review Form

- **Instructions**
- **Part 1: Patient Demographics and Details**
- **Part 2: Obtaining Input from Practitioner**
- **Part 3: Assessment of Care and Determination**
- **Part 4: "Lessons Learned" and "System Issues"**

71

Case Review Form

- **Instructions**
- **Part 1: Patient Demographics and Details**
- **Part 2: Obtaining Input from Practitioner**
- **Part 3: Assessment of Care and Determination**
- **Part 4: "Lessons Learned" and "System Issues"**

72

Sutter East Bay Medical Group

Obtaining Input from Practitioner

- *No questions or issues identified*, no need to obtain input – proceed to Assessment of Care and Determination
- *If any questions or issues identified*, provide details to and obtain input from Practitioner
- Letter or e-mail sent to Practitioner seeking written input
- In addition to written input, did reviewer speak with Practitioner? If so, record relevant details
- After input obtained, proceed to Assessment of Care and Determination

73

Case Review Form

- *Instructions*
- *Part 1: Patient Demographics and Details*
- *Part 2: Obtaining Input from Practitioner*
- *Part 3: Assessment of Care and Determination*
- *Part 4: "Lessons Learned" and "System Issues"*

74

Assessment of Care and Determination

- List elements of care (e.g., judgment; technical skill), and then...
"No Issue/Concern" or "Some Issue/Concern"
- Determination (*must match your process/option you choose*):
 - No issue
 - Exemplary care provided, inform Practitioner
 - Send Educational Letter
 - Conduct Collegial Counseling
 - Refer to Peer Review Committee

75

Sutter East Bay Medical Group

2014

PART 3: ASSESSMENT OF CARE AND CASE DETERMINATION
(This section is completed by the CPE reviewer by CPE)

CPE checks the applicable box:

CSR ASSESSMENT OF CARE	No issue/ concern	Some issue/ concern	N/A
Based on your review of this case, including any input provided by the Practitioner, please indicate whether you have any issue or concern with the following:			
Medical record documentation (H&A, progress notes, operative report, discharge summary)			
Diagnostic work-up of patient			
Problem formulation (initial impressions, rule-outs, assessment)			
Appropriateness of treatment plan/procedure			
Medical necessity of treatment plan/procedure			
Medication use/orders			
Management of multiple complex problems			
Medical/clinical knowledge			
Clinical judgment			
Technical skills and proficiency			
Recognition and management of any complications			
Use of consultants			
Compliance with applicable clinical protocols and guidelines			
Communication with other members of the healthcare team/appropriate handoffs			
Professionalism with patients, families, and other members of the healthcare team			

If you answered "Some issue/concern" to any of the above after considering the Practitioner's input, please provide details in this section or attach a summary. Please also provide any other comments that you believe may be helpful to the CPE's review (if any).

This document is a confidential and privileged source of information. It is not to be used, copied, or otherwise disseminated outside the organization.

76

Case Review Form

- **Instructions**
- **Part 1: Patient Demographics and Details**
- **Part 2: Obtaining Input from Practitioner**
- **Part 3: Assessment of Care and Determination**
- **Part 4: "Lessons Learned" and "System Issues"**

77

"Lessons Learned" and "System Issues"

- Once this review is concluded, would this patient scenario be of educational benefit to other group members?
Y/N?
- Based on your review, are there any system process or policy changes that could improve patient safety and care?
Y/N?
 - Recommendations (e.g., new policy or checklist; training for staff)?
 - Who should be involved to most effectively address the issue?

78



**When and how
should you get
input from the
practitioner?**
(Clinical Issues)

79

When is input sought from practitioners?

- As soon as a potential concern is first identified (e.g., as a result of a trigger)?
- After a disturbing trend has developed?
- Any time a reviewer has a concern about a case and input has not already been obtained

80

How?

81

Sutter East Bay Medical Group

General Rules

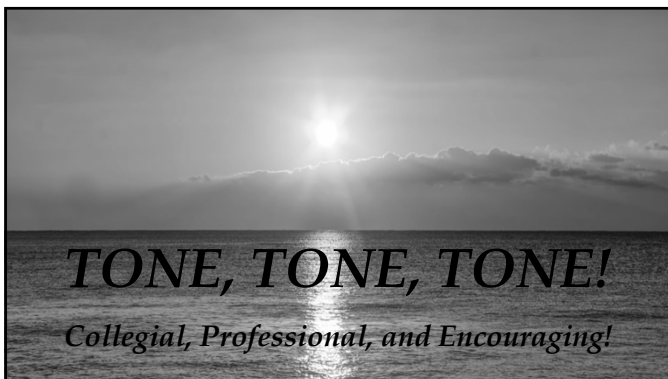
- *No improvement tool* (Educational Letter, Collegial Counseling, Performance Improvement Plan) until practitioner is notified of specific concerns and provides input
- Note: this does not apply to Informational Letters...but choose events that trigger an Informational Letter *carefully!*

82

Keys to Successful Communication

- You can't be nice enough!

83



84

Sutter East Bay Medical Group

Keys to Successful Communication

- You can't be nice enough!
- "Thank you for your cooperation and input to date"
- "We are conducting this review to successfully and constructively address any issues that are identified."

85

Keys to Successful Communication

- "Thank you for your cooperation and participation in the Group's ongoing efforts to improve the care that we provide."

86

General Rules

**Request should include time frame
for practitioner's input**

87

Sutter East Bay Medical Group

What format is used for requesting input?

- Written request:
 - Promotes consistent message through use of standard language
 - Serves as documentation
- E-mail may be less threatening than letters
- Consider phone call as “heads up” (may reduce tension and avoids “I don’t check e-mail” problem)

88

Four Steps for an *Effective Collegial Interventions*

89

Collegial Intervention

Step #1: Assess the situation – no zero to 100 reactions!

- How serious is the issue?
- Is there a past history of similar incidents?
- Where are we in the continuum?

90

Sutter East Bay Medical Group

Collegial Intervention

Step #2: Address administrative issues

- Where and when are you going to meet?
- Who is going to meet (one-on-one or group)?
- How much time do we need? How much are we likely to get?

91

Collegial Intervention

Step #3: Plan and Prepare!

- What are your talking points?
- What reactions/responses can we anticipate... and be prepared to address?
- What is the desired outcome/objective?

92

Talking Points

- Introduction
 - "Thank you for meeting with us"
 - "We are..."
 - "The purpose of this meeting is to..."
- Confidentiality/Retaliation
 - "This is a part of our peer review process."
 - "Thou shalt not retaliate"
- Issues/Questions

93

Sutter East Bay Medical Group

Plan for the inevitable “what ifs”!!

94

What if?

- The practitioner brings her lawyer?
- The practitioner wants to record the meeting?
- The practitioner doesn't show up?

95

Collegial Intervention

Step #4: Document!

96

Sutter East Bay Medical Group

Remember The Basics!!!

Talk to your colleague

97

Remember The Basics!!!

**Last But Not Least...
Improves Legal Position –
Even if it Doesn't Work!**

98

Practitioner Health and Professionalism

99

Part I:

Practitioner Health

(Helping Colleagues and Protecting Patients)

100

What's the Scope of the Problem?

101

Depression rate in physicians is similar to
that in the general population:
12% of males
19.5% of females

But...

References

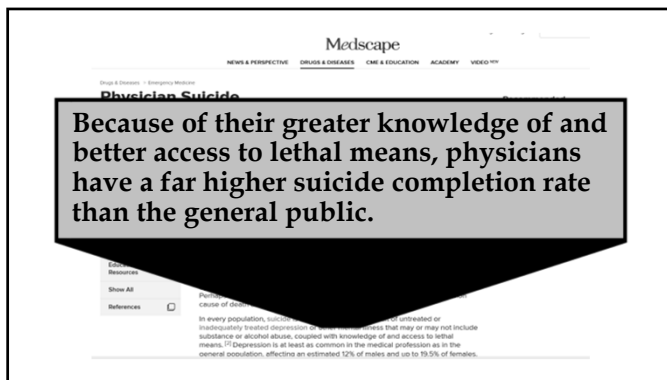
all of the following are not included in the
substance of accurate and complete information to general
means.¹⁷ Depression is at least as common in the medical profession as in the
general population, affecting an estimated 12% of males and up to 19.5% of females.

102

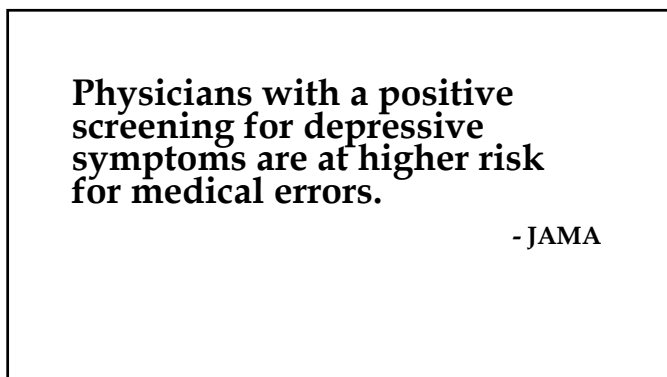
Sutter East Bay Medical Group



103

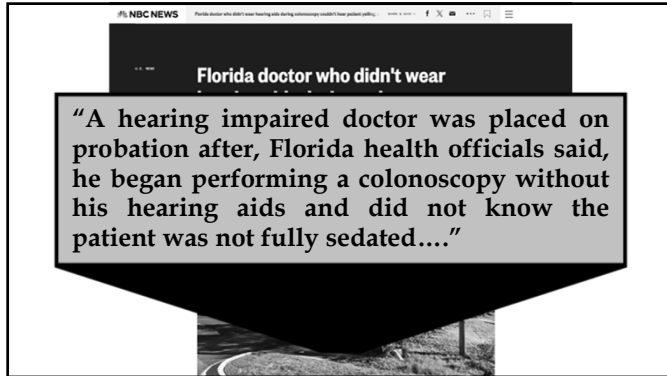


104



105

Sutter East Bay Medical Group



106

Substance Abuse

10% - 14% of physicians may become chemically dependent (i.e., drugs or alcohol) at some point in their careers. This mirrors the general population.

107



108

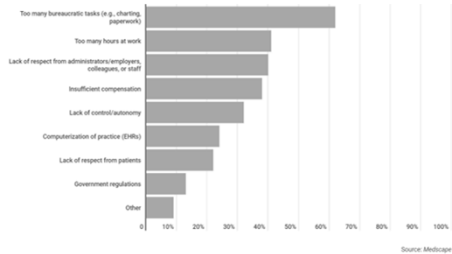
Physician Burnout



49% of physicians describe themselves as burned out, according to a 2023 Medscape Survey

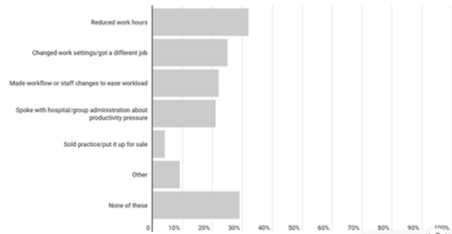
109

Top contributors to physician burnout



110

How physicians are reducing burnout at work




111

Sutter East Bay Medical Group

Physician Burnout

"I personally find a lot of wellness in running and doing yoga, but that doesn't address the root cause of sitting in front of a computer going mad trying to click all the boxes."



112

WHAT THE 2024 ELECTIONS MEAN FOR HEALTHCARE Get the latest news and insights from our [Learn](#) X

Advisory Board LATEST RESEARCH EVENTS & WEBINARS TOOLS DAILY BRIEFING


Case Study

How

Reducing documentation and cognitive burden with AI

improving clinician well-

Chat with us




113

Dr. Lorna Breen Foundation

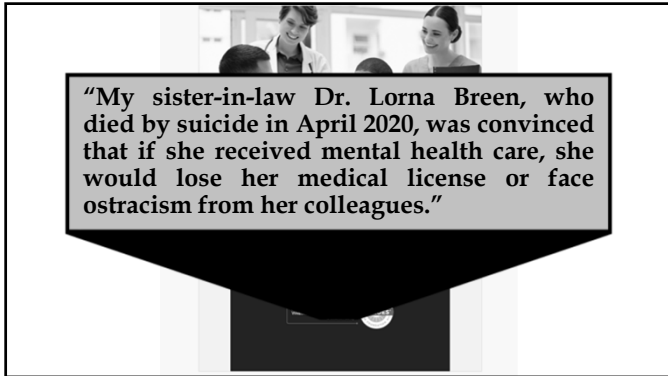
Apptools v15
A Toolkit for Hospitals and Health Systems

ALL IN
Working hard for healthcare

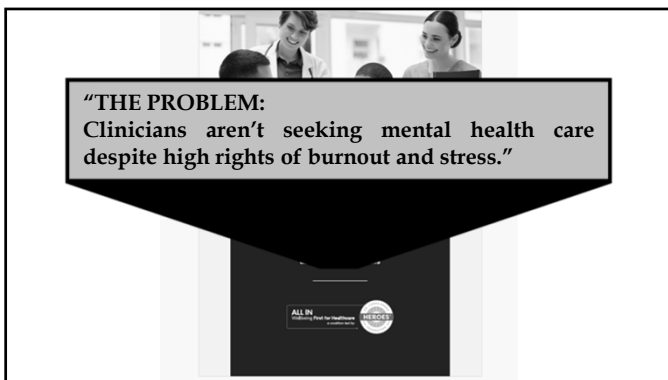


114

Sutter East Bay Medical Group



115



116



117

Sutter East Bay Medical Group

Education:

- Definition of a “Health Issue”

118

The AMA defines physician impairment as “any physical, mental, or behavioral disorder that interferes with the ability to engage safely in professional activities.”

119

Education:

- Definition of a “Health Issue”
- Examples
 - Substance or alcohol abuse
 - Use of medication that affects alertness, judgment, or cognitive function
 - Mental health conditions
 - Infectious/contagious disease that could compromise patient safety

120

Sutter East Bay Medical Group

Reporting:

- Practitioner Health Committee?
- Outpatient Peer Review Committee?

121

Reporting:

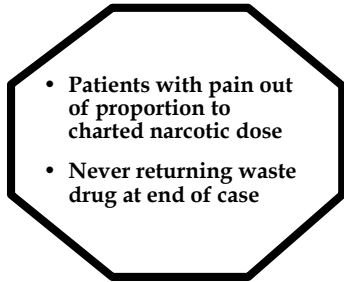
- Duty to self-report
- Reports on suspected issues
- Confidentiality
- Response to immediate threats
- Warning signs

122

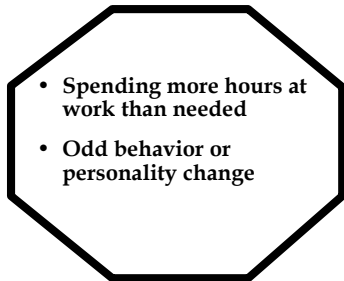
Warning Signs of Substance Abuse

123

Sutter East Bay Medical Group



124



125



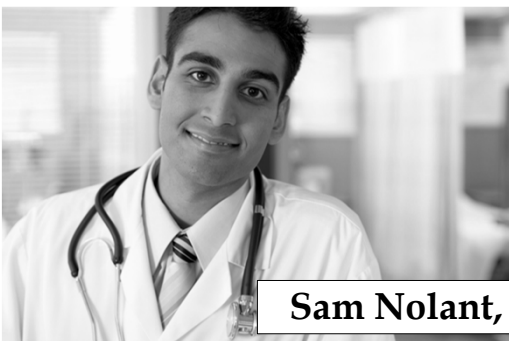
126

Assessment & Reinstatement

127

Dr. Sam Nolant

128



Sam Nolant, M.D.

129

Sutter East Bay Medical Group

What are your options?

130

**Voluntary Agreement to Refrain
and
Fitness for Practice Evaluation**

131

Fitness for Practice Evaluation

Best practices:

- Entity selected by, or acceptable to, the Practitioner Health Committee
- Authorization to permit communication
- Form of report (specify the questions you want answered)

132

Sutter East Bay Medical Group

**...Leave of Absence
(if treatment program is warranted
by the results of the Fitness for
Practice Evaluation)**

133

**Fitness for practice evaluation
should focus on whether Dr. Nolant
is safe and competent to practice.**

134

Reinstatement:

- Conditions described in detail
- For substance abuse:
 - Coverage
 - Changes in practice
 - Ongoing monitoring
 - Periodic reports of health status
 - Random screens

135

Sutter East Bay Medical Group

What information should the Practitioner Health Committee ask for in considering Dr. Nolant's request for reinstatement?

136

Evaluate reporting requirements:

- Is a report to state Board of Medicine required?
- Is a report of theft of controlled substances to federal DEA required?

137

Age-Related Concerns

138

Sutter East Bay Medical Group

Review
October 2017
The Aging Physician and the Medical Profession

- Since 1975, the number of practicing physicians older than 65 years has increased by more than 374%.
- In 2015, 23% of practicing physicians were 65 years or older.

College of Surgeons

Observations Since 1975, the number of practicing physicians older than 65 years in the United States has increased by more than 374%, and in 2015, 23% of practicing physicians were 65 years or older. Research shows that between ages 40 and 75 years, the mean cognitive ability declines by more than 20%, but there is significant variability from one person to another, indicating that while some older physicians are profoundly impaired, others retain their ability and skills. There are age-based requirements for periodic testing and/or retirement for

139

Review
October 2017
The Aging Physician and the Medical Profession
A Review

Research shows that between ages 40 and 75 years, the mean cognitive ability declines by more than 20%.

This review has not demonstrated that older physicians are less competent or less safe than younger physicians. Many competent physicians are older, and the existing body of evidence regarding the relationship between physician age and performance is inconclusive. Organizations, such as the American College of Surgeons, to revisit this challenge.

Observations Since 1975, the number of practicing physicians older than 65 years in the United States has increased by more than 374%, and in 2015, 23% of practicing physicians were 65 years or older. Research shows that between ages 40 and 75 years, the mean cognitive ability declines by more than 20%, but there is significant variability from one person to another, indicating that while some older physicians are profoundly impaired, others retain their ability and skills. There are age-based requirements for periodic testing and/or retirement for

140

"For surgeons older than 60 years...significant differences in mortality rates were largely restricted to those with low procedure volumes... Among high-volume surgeons, however, there were no significant differences in mortality rates...."

— Annals of Surgery

141

Sutter East Bay Medical Group

Age Discrimination in Employment Act of 1967 (ADEA)

- Applies to “employees” (though some courts are interpreting broadly) over age of 40
- Prohibits employment action based on age
- Applies to mandatory retirement, mandatory testing, etc.

142

Options



143

This Issue Views: 6,110 Citations: 0 Altmetric: 163

JAMA Performance Improvement

January 14, 2020

Cognitive Testing of Older Clinicians Prior to

Yale New Haven Hospital requires neuropsychological assessment for clinicians aged 70 years or older.

older.

An advisory committee of medical professionals and hospital administrators determined that a neuropsychologic examination be replaced by an objective evaluation of cognitive function by the hospital. The group determined that this evaluation would be the most effective method of assessing potential impairment in older clinicians.

Editorial

Opportunities and Challenges in Valuing and Evaluating Aging Physicians

144

Sutter East Bay Medical Group

This Issue Views 6,310 Citations 0 Altmetric 163

JAMA Performance Improvement
January 14, 2020

Cognitive Testing of Older Clinicians Prior to

Finding – 12.7% of clinicians aged 70 years or older were found to have impaired cognition, raising concerns about their clinical abilities.

An advisory committee... examination be replaced by an objective evaluation... The group determined that this evaluation would be the most effective... impairment in older clinicians.

Editorial
Opportunities and Challenges in Validation and Evaluation Across Physicians

145

NEJM Catalyst | Innovations in Care Delivery

Hartford Healthcare developed a proactive approach to screen for signs of cognitive decline.

The physicians... remain productive, yet age... care organizations and physician groups have... Several organizations have begun to introduce age-based screening for signs of cognitive and physical decline. Medical staff leaders from six hospitals in an integrated delivery system instituted a program of provider assessment and cognitive screening of all clinicians at the age of 70. A 14.4% incidence of cognitive impairment was observed. This has resulted in the adoption of a collegial approach to assisting, in a humane way, physicians who may have evidence of cognitive decline, yet ensuring that patient safety remains paramount.

146

NEJM Catalyst | Innovations in Care Delivery

ARTICLE

In all, 13 (out of 118) were identified as meeting the criteria for Mild Cognitive Impairment.

The physicians... remain productive, yet age... care organizations and physician groups have... Several organizations have begun to introduce age-based screening for signs of cognitive and physical decline. Medical staff leaders from six hospitals in an integrated delivery system instituted a program of provider assessment and cognitive screening of all clinicians at the age of 70. A 14.4% incidence of cognitive impairment was observed. This has resulted in the adoption of a collegial approach to assisting, in a humane way, physicians who may have evidence of cognitive decline, yet ensuring that patient safety remains paramount.

147

Sutter East Bay Medical Group

But...

148

EEOC v. Yale New Haven Hospital
Filed February 11, 2020

Allegation – Yale New Haven violated the ADEA by adopting the Policy and applying it to physicians over the age of 70.

See: “Yale New Haven Hospital’s Late Career Practitioner Policy” (“the Policy”), that requires any employee who is age 70+ to also apply for, or seek

149

 **U.S. Equal Employment
Opportunity Commission**

Search terms...

 Languages ▾


January 7, 2021

The EEOC investigation determined that Hennepin Healthcare System’s “Late Career Practitioner Policy” discriminated against practitioners age 70 and older.

The EEOC announced its decision on January 7, 2021, after a thorough investigation of the allegations that the Hennepin Healthcare System’s “Late Career Practitioner Policy” discriminated against practitioners age 70 and older. The EEOC’s decision is a landmark ruling in the area of age discrimination. The EEOC’s decision is a landmark ruling in the area of age discrimination. The EEOC’s decision is a landmark ruling in the area of age discrimination.

150

[illegible]

 **EEOC NEWS**

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

FOR IMMEDIATE RELEASE
December 19, 2023

**SCRIPPS CLINICAL MEDICAL GROUP TO PAY
\$6.875 MILLION**

Scripps Clinical Medical Group has settled an age and disability discrimination charge filed with the EEOC after it subjected a class of physicians to a mandatory retirement age.

Scripps Health announced today that the company does not have any further comment on this matter. The settlement covers all claims arising from employment decisions, including termination, retirement, or other personnel actions, made by Scripps Health between January 1, 2018 and December 31, 2022.

51

Sutter East Bay Medical Group

**Does “disruptive” conduct
adversely affect patient care?**
(as if you really need convincing!)

154

**Data tells us
“Yes, it does”**

155

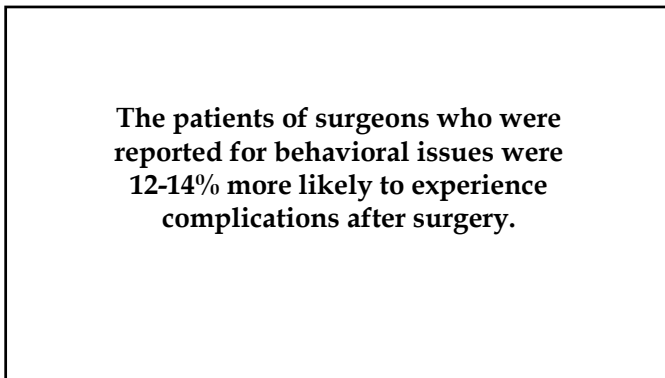
**In a survey of 1,500 health care
professionals, 17% reported
knowing of adverse events
related to disruptive conduct.**

156

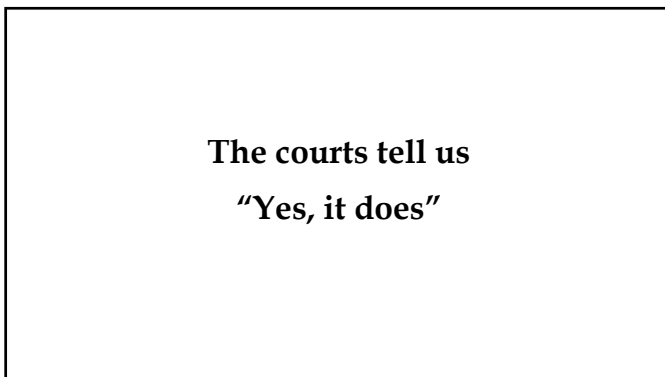
Sutter East Bay Medical Group



157



158



159

Sutter East Bay Medical Group



**Dr. Leal and the
Terrible,
Horrible,
No Good,
Very Bad Day**

160

*Leal v. Secretary,
U.S. DHHS*

"The plaintiff, Dr. Jorge J. Leal, was like Alexander in the classic children's book. He was having 'a terrible, horrible, no good, very bad day.'"

161

The Court Said:

At the end of that day, when told that his use of an operating room was going to be delayed, "he pitched a fit."

162

Sutter East Bay Medical Group

	According to the Hospital, Dr. Leal became so enraged he: 1. broke a telephone 2. shattered the glass on a copy machine 3. shoved a cart into the doors of the operating suite so hard that it damaged one of them 4. flung a medical chart to the ground 5. threw jelly beans down the hallway in the surgical suite	According to Dr. Leal's affidavits, he: 1. accidentally broke a telephone when he tripped on its cord 2. closed the lid of a copy machine with 'some force' and the glass cracked 3. moved a cart that was blocking the doors of the operating suite 4. was handed a chart and some of the loose papers fell to the floor 5. ate jelly beans, some of which fell on the floor when he tried to throw away flavors he did not like
--	---	---

163

The Court Said:

"In other words, this urological surgeon, who earns his living wielding a razor-sharp scalpel on some of the most delicate parts of the body, does not have a bad temper - he is just clumsy."

164

The Court Said:

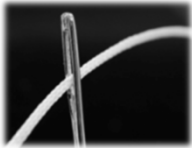
"The fact that no patients were hit by pieces of the broken telephone, or by the shattered copy machine glass, or by the careening metal cart, or by the flying jellybeans, or by the airborne medical chart, is not dispositive."

165

The Court Said:

"The Hospital was required to report its disciplinary action to the Data Bank, even though its halls were not littered with injured patients."

166



The common thread is that this type of behavior interferes with the orderly operation of the hospital and has the potential to adversely affect care.

167



DO'S

&



DON'TS

168

Sutter East Bay Medical Group



**Incorporate Professionalism Standards
into Your Peer Review Policy.**

169

Professionalism Standards

- Identify acceptable and unacceptable behavior
- Define review process
- Provide for progressive steps

170

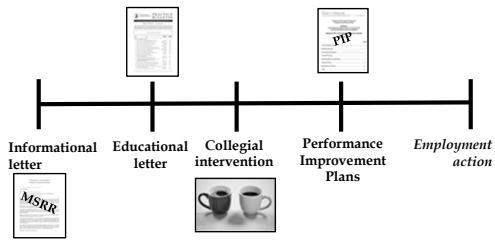


**Use Progressive Steps to
address concerns early.**

171

Sutter East Bay Medical Group

Progressive Steps Continuum



172



**Be Shy -
The Meet & Greet.**

173

- Remember our Intervention steps
 - Breathe, Plan, and Prepare
 - Do we need to address confidentiality and retaliation?

174

Sutter East Bay Medical Group



Ignore quality concerns.

175



Stay focused on the inappropriate behavior, not its cause.

176



Diagnose.

177

Sutter East Bay Medical Group

Psychiatric Evaluations?

- Be careful! Generally not a good idea!
- Stay focused on inappropriate behavior, not possible causes!

178



**Document,
document, document!!!**


179



**Consider a Personal Code of
Conduct/Performance Improvement Plan.**

180

Sutter East Bay Medical Group


<p>This means that you may not:</p> <ul style="list-style-type: none">• in any way demean, belittle, or berate any Clinic personnel, physician practicing at the Clinic, patient, or patient family member;• engage in non-constructive criticism with members of the healthcare team which intimidates, undermines confidence, or implies stupidity or incompetence;• raise your voice or engage in other angry or hostile behavior;• use any profanity while in the Clinic and/or while speaking with physicians, nurses, or other Clinic personnel; or• engage in any physically or verbally aggressive conduct.

181

<ul style="list-style-type: none">• engage in non-constructive criticism with members of the healthcare team which intimidates, undermines confidence, or implies stupidity or incompetence;• raise your voice or engage in other angry or hostile behavior;• use any profanity while in the Hospital and/or while speaking with physicians, nurses, or other Hospital personnel; or• engage in any physically or verbally aggressive conduct. <p><small>(1) You must communicate professionally, calmly, and respectfully with other physicians.</small></p>	<p>Should you have any concerns or complaints in the future with the care or service being provided by another physician, by a nurse or other Clinic employee, or by the Clinic itself, you must use the established confidential administrative channels to register those concerns.</p> <p><small>regulations applicable to other Medical Staff members at the Hospital, including but not limited to, the Professional Policy, and the Rules, policies, and the rules and regulations of the Medical Staff and the Hospital.</small></p> <p><small>(2) If there are any potential violations of the specific conditions set forth in this letter (which will be determined by the President of the Medical Staff and/or the Chief Medical Officer after discussing the matter with you and obtaining your perspective), you agree to the following:</small></p> <p style="text-align: center;">2</p>
--	--

182

<ul style="list-style-type: none">• engage in non-constructive criticism with members of the healthcare team which intimidates, undermines confidence, or implies stupidity or incompetence;• raise your voice or engage in other angry or hostile behavior;• use any profanity while in the Hospital and/or while speaking with physicians, nurses, or other Hospital personnel; or• engage in any physically or verbally aggressive conduct.	<p>So that there is no confusion, any concerns that you may have should be directed to the following individuals:</p> <ul style="list-style-type: none">• For nursing issues – Joanne Thompkins, MSN, Chief Nursing Officer; and• For Clinic and other issues – Michelle Clarke, M.D., Chief Medical Officer <p><small>regulations of the Medical Staff and the Hospital.</small></p> <p><small>(2) If there are any potential violations of the specific conditions set forth in this letter (which will be determined by the President of the Medical Staff and/or the Chief Medical Officer after discussing the matter with you and obtaining your perspective), you agree to the following:</small></p> <p style="text-align: center;">2</p>
---	---

183

Sutter East Bay Medical Group

	<ul style="list-style-type: none"> engage in non-constructive criticism with members of the healthcare team which intimidates, undermines confidence or impairs supplies or effectiveness; raise your voice or engage in other angry or hostile behavior; use any profanity while in the Hospital and/or while speaking with physicians, nurses, or other Hospital personnel; or engage in any physically or verbally aggressive conduct. <p>(2) You must communicate professionally, calmly, and respectfully with other physicians and with nursing personnel when these individuals are assisting you or seeking guidance from you with respect to the care of any patients. You must also interact with patients in the very same manner.</p> <p>(3) Should you have any concerns or complaints in the future with the care or service being provided by another physician, by a nurse or other Hospital employee, or by the Hospital itself, you must use the established confidential Medical Staff and administrative channels to register those concerns. These mechanisms are part of our confidential ongoing performance improvement and patient safety activities, and protect the appropriate Medical Staff or Hospital leadership to fully investigate, remedy and</p>	
<p align="center">You must not engage in any retaliatory or abusive conduct.</p>		
	<p>(4) You must not engage in any retaliatory or abusive conduct with respect to any individual at the Hospital who may have raised a concern about you in the past, or who does so in the future. It is the Hospital's responsibility to provide a safe, non-discriminatory workplace for our patients and all other personnel. Therefore, any retaliation will be tolerated. Any further information that you may wish to have concerning these matters, or any further information that our own risk to provide, must be directed to the Hospital and Medical Staff leadership.</p> <p>(5) In addition to the above conditions, you remain subject to and agree to abide by all requirements applicable to other Medical Staff members at the Hospital, including but not limited to the Professionalism Policy, and the History, policies, and the rules and regulations of the Medical Staff and the Hospital.</p> <p>(6) If there are any confirmed violations of the specific conditions set forth in this letter (which will be determined by the President of the Medical Staff and/or the Chief Medical Officer after discussing the matter with you and obtaining your perspective), you agree to the following:</p>	

184

	<p align="center"><small>(6) – Third Confirmed Violation – You will receive a letter of warning.</small></p> <p>If there are any confirmed violations of the specific conditions set forth in this letter:</p> <p>i. <u>First Confirmed Violation</u> – You will receive a letter of warning;</p> <p>ii. <u>Second Confirmed Violation</u> – You will be suspended for 14 days; and</p> <p>iii. <u>Third Confirmed Violation</u> – A recommendation will be made that your employment be terminated.</p> <p align="center"><small>Initiated in this letter and continued in the Registry Notice by Email.</small></p> <p align="center"><small>Wesley Brink, M.D.</small></p>	
--	---	--

185

 <p>Consider outside resources.</p>

186



Ignore Harassment

187

Outpatient Peer Review Potpourri

(aka a lot of information in a short period of time)

188

Legal Protections



189

Sutter East Bay Medical Group

Top Shelf:

The Health Care Quality Improvement Act (HCQIA)

190

HCQIA The Rundown:

1. Federal law
2. Provides immunity from damages
3. Protects:
 - professional review bodies,
 - members of professional review bodies, and
 - those providing information

191

HCQIA The Rundown:

Applies to “health care entities”:

- Hospitals
- Entities that provide health care services and have a formal peer review process

192

Sutter East Bay Medical Group

HCQIA The Rundown:

Professional review bodies immune if action taken:

- In reasonable belief in furtherance of quality care
- After reasonable investigation
- After notice of action and hearing*

193

State legal protections:

- Peer review privilege

194

Cal. Evid. Code § 1157(a)

The proceedings and records of a “peer review body” are not subject to discovery.

195

Sutter East Bay Medical Group

Cal. Bus. & Prof. Code § 805

A "peer review body" includes a committee organized by an entity consisting of or employing more than 25 licentiates (i.e., physicians).

196

Keys to Confidentiality

197

**Teach confidentiality
best practices...**
*and reinforce at every
opportunity!*

198

Sutter East Bay Medical Group

Confidentiality Statement

199

Confidentiality Statement

- Made by physician leader at the beginning of every committee meeting
- Content is practical, “physician-speak,” not threatening lawyer tone

200

- *Quick reminder:* Everything we discuss today is very sensitive and protected by state law
- Let’s have robust and constructive discussions today, but remember everything is *strictly confidential*
- Once you leave the meeting, no discussions *except* with another authorized individual *and* in private or we place everyone at risk
- Thanks for your *professionalism*

201

Sutter East Bay Medical Group

Confidentiality Agreements

- "As a committee member, I recognize that I will have access to sensitive and confidential peer review information...."
- "I understand that all such information and any discussions regarding it are strictly confidential...."
- "I understand that breaches of confidentiality reflect a lack of professionalism and have multiple, serious consequences...."
- "Therefore, I agree to maintain the confidentiality of all peer review information...."

202

Distribution of Documents

Consider...

203

- Not providing "hard" copies of confidential documents in advance of meetings
- Numbering copies of any confidential documents that may be distributed before or at meeting
- Collecting and destroying copies after meetings/ instructions to delete e-mailed documents
- Secure e-mail/secure intranet

204

Sutter East Bay Medical Group

Promote Information Sharing Through Formal Mechanisms

205

Formal Mechanisms for Information Sharing

- Policy language

206

Authorization to Share Information Among Affiliated Entities:

The individual authorizes Affiliated Entities to share information pertaining to the individual's clinical competence, professional conduct, and health.

"AFFILIATE" means an entity that controls, is controlled by, or is under common control with the Group.

207

Sutter East Bay Medical Group

Formal Mechanisms for Information Sharing

- Policy language
- Employment contracts
- Information Sharing Policy

208

Information Sharing Policy

Includes processes for:

- Responding to “pull” requests
- Making “push” notifications (affirmative obligation to provide information in defined circumstances)
- Using consent forms for certain health information

209

Final Tips

210

Sutter East Bay Medical Group

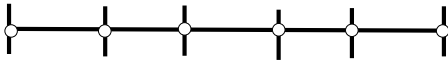
Final Tips

“Hire hard, manage easy”

211

Final Tips

**Use collegial efforts and
progressive steps!**



212

Final Tips

Document, document, document!



213

Sutter East Bay Medical Group

Final Tips

Call counsel!



214

Final Tips

Take Care of Yourself

215

Thank You!

216

Thank you!

HortySpringer Seminars
20 Stanwix Street, Suite 405
Pittsburgh, PA 15222

phone: (412) 687-7677 • fax: (412) 687-7692

email: info@hortyspringer.com
www.hortyspringer.com

HORTY ➤ SPRINGER
