

BRYAN HEALTH

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Sexual Harassment: Inappropriate? Unlawful? Or Both? (90-minute Presentation)

- MeTooInMedicine – Nothing much has changed, including “expectations” and the often-present power differential
- Sexual harassment is not only inappropriate and unprofessional, but it also violates the law.
- “Quid pro quo” harassment and “hostile work environment” harassment: what’s the difference?
- Employers have an affirmative duty to “seek out and eradicate sexual harassment.”
 - Leaders have an affirmative duty to report any inappropriate activity, suspicious activity.
- Do I get a pass if “I’m just a crude and vulgar guy” all the time to everyone?
- What if it’s a consensual relationship? As a Medical Staff Leader, are “Medical Staff Affairs” really my business? YES, if:
 - there’s a power differential;
 - one party is the supervisor;
 - the affair is on full display at the hospital; and/or
 - the affair interferes with the orderly operation of the hospital.
- Can we solve the problem with a “love agreement”?
- Best practices for reporting:
 - encourage individuals to sign complaint;
 - allow for anonymous reporting; and
 - follow-up with individual who filed report.
- Best practices in review process:
 - involve HR;

- meet with complaining party;
 - meet with the physician;
 - make it clear retaliation will not be tolerated; and
 - articulate and uphold “no tolerance policy.
- What if it’s a “he said, she said” situations (and it almost always is)? These require an assessment of the credibility of the individuals involved.
 - Best practices in remediation:
 - take and document progressive discipline;
 - action must be sufficient to ensure unlawful conduct is not repeated anywhere in the work environment; and
 - consider Performance Improvement Plans for Behavior.