MANAGING PATIENT AND PHYSICIAN DISRUPTIVE BEHAVIOR IN THE DIALYSIS FACILITY

Skills and Tools For Dealing With Common Problems
DISRUPTIVE BEHAVIOR IS COSTLY TO THE FACILITY

TIME
1. Time spent resolving grievances and lawsuits
2. Time spent for involuntary discharges/transfers
   a) ESRD Network and State Agency involvement
   b) Adherence to Conditions for Coverage

MONEY
1. Staff satisfaction and turnover
2. Prospective Payment System (PPS) (“Bundle”)
   a) Missed treatments ➔ no payment
3. Quality Incentive Program (QIP)
   a) Patient satisfaction ➔ withhold

Richard S Goldman MD
DISRUPTIVE BEHAVIOR PROVIDES OPPORTUNITIES FOR YOU

1. Calm people down before they harm themselves or others.

2. Build a positive relationship with them.

3. Be a leader by setting a good example for others.

Harry Mills, Ph.D.   MentalHelp.net
## TOOLS FOR CHANGING DISRUPTIVE BEHAVIOR

<table>
<thead>
<tr>
<th>NEPHROLOGY SPECIFIC TOOLS</th>
<th>NON-NEPHROLOGY TOOLS</th>
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<tbody>
<tr>
<td>1. Decreasing Dialysis Patient and Provider Conflict (DPC)</td>
<td>1. Active Listening</td>
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<td>2. Shared Decision Making in The Appropriate Initiation of and Withdrawal From Dialysis</td>
<td>2. “5 WHY’S”</td>
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<tr>
<td>3. Forum ESRD Networks Medical Director Toolkit</td>
<td>3. Anger Management Skills</td>
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<tr>
<td>5. Dialysis By Available Slot</td>
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</tbody>
</table>

Richard S Goldman MD
Information and Motivation are Not Sufficient to Change Behavior

• Most smokers know that smoking is bad for their health, and they want to quit . . .

• Most overweight people know that extra weight has negative health effects, and they want to lose pounds . . .

If information and motivation were enough ... we would all be healthy!

Richard S. Goldman MD
Behavioral interventions are more than twice as effective as information-only programs

- Effect sizes of .26 (information only) and .64 (behavioral skills) on health behavior
- Effect sizes of .18 (information only) and .74 (behavioral skills) on physiological variables (BP, weight, glucose, cholesterol)

Meta-analysis of health behavior change programs (Mazzuca, 1982)
ANGER MANAGEMENT

DEMANDS vs REQUESTS

Our role in confrontations

Physicians often enter emotionally charged situations with certain preconceptions
PRECONCEPTIONS
1. We often feel we hard work which “entitles” us to be treated with respect.
2. Due to unpredictable and chaotic events, we are often hurried, harried and angry.
3. Consequently, our “requests” often sound like “demands.”
4. “Demands” often provoke defensive, angry feelings in others and are not likely to be carried out happily.

REQUEST NOT DEMAND
An effective “request “ should be:
1. Clear
   a. Provide answers to 3 questions:
      1) Who? To whom are you making the request.
      2) What? What must be done to fulfill the request.
      3) When? When should it be done.
2. Respectful
   a. “Would you please …”
   b. “If it isn’t too much trouble, would you …”
3. Emotionally transparent
   a. Share the true, sincere reasons for the request.

“I FEEL (AM)….. WHEN YOU ..... BECAUSE ....................”
DIFFUSING AND RESOLVING DISRUPTIVE BEHAVIOR

Policies and Procedures
DIFFUSING DISRUPTIVE BEHAVIOR

1. WHEN
   a. now or later ... but leave enough time

2. WHERE
   a. Pick a private, quiet place.

3. WHO
   a. If possible, have family members, friends or community members present. DON’T GANG-UP.
DIFFUSING DISRUPTIVE BEHAVIOR

4. HOW
   a. If you are emotional too, take a few moments to calm yourself and collect your thoughts.
      1) Relax: take **THREE DEEP BREATHS** slowly
   b. Handoff to someone else if you can’t calm yourself.
   c. Focus on the issues and emotions, not the people
   d. Don’t judge, debate, agree or disagree, argue or threaten.
   e. Empathize. Use “effective or active listening.”
   f. Clarify. Use “5 Why’s”
   g. Be clear
   h. Be respectful
   i. Be sincere and transparent

Jones, E; Goldman R; Managing Disruptive Behavior by Patients and Physicians: A Responsibility of the Medical Director; CJASN Nov, 2014
RESOLVING DISRUPTIVE BEHAVIOR

1. Have an internal grievance policy, make all aware of it, and use it.

2. Have written policies and procedures for dealing with conflict
   a. Exclude medical causes
   b. Psychology referral
   c. Train staff to manage conflict
   d. Use others

3. Understand the person’s position (empathize; clarify) THEN negotiate in good faith
   a. Empathy: Active Listening
   b. Clarify with “5 Whys” Educate; Win-Win; Compromise
   c. Can’t compromise → Timed Trials
   d. May sign an agreement stipulating the agreed-upon solutions.
      1) No self serving “behavioral contracts” – not-in-good-faith
      2) Include consequences to both sides.

4. If there is an imminent physical threat or harm, notify appropriate authorities immediately.

Goldman RS; Medical Director Responsibilities Regarding Disruptive Behavior in the Dialysis Center: Leading Effective Conflict Resolution; Seminars In Dialysis; March-April; 2008

Jones, E; Goldman R; Managing Disruptive Behavior by Patients and Physicians: A Responsibility of the Medical Director; CJASN Nov, 2014
Recommendation No. 7  TIME-LIMITED TRIAL OF DIALYSIS.

- AGREE ON OUTCOMES, GOALS AND DURATION
- PERFORM TIME-LIMITED TRIAL
- REASSESS WHETHER GOALS AND OUTCOMES WERE ACHIEVED

Negotiation Process
RESOLVING DISRUPTIVE BEHAVIOR
BY ATTENDING NEPHROLOGY CLINICIANS

Doctors and ACPs
Resolving Disruptive Behavior By Attending Clinicians

SAFETY MUST BE PARAMOUNT

1. Engage the physician one-on-one with data and examples of the behavior; keep the discussion focused on the behavior and try to avoid personality conflicts
   a. Active listening to demonstrate empathy
   b. Clarify the behavior using “5 Why’s”
   c. Request clinician to change their behavior:
      1) clear, honest, respectful

2. Consider medical, psychological, situational reasons and address specifically:
   a. Depression
   b. Drug abuse.
   c. Anger management
   d. Time management and work ethic
   e. Personal relationships dysfunction

Jones, E; Goldman R; Managing Disruptive Behavior by Patients and Physicians: A Responsibility of the Medical Director; CJASN Nov, 2014
3. Utilize the by-laws of the facility ➔ **follow due process**;
   a. All attendings sign credentialing policies and procedures (**due process**) 
   b. Adjudicators
      a. Governing Body Review
      b. Company Medical Advisory Board
      c. Chief Medical Officer
      d. Legal department

4. **RECALCITRANT PHYSICIANS**
   a. Timed Trial
   b. Mandatory psychological intervention, drug testing
   c. Mandatory SUSPENSION OR TERMINATION
      a. Dialysis providers must be vigilant and firm — even if it means the loss of patients.
   d. Mandatory report to STATE MEDICAL SOCIETY
      a. This allows the Medical Society to adjudicate the appropriateness of actions

Jones, E; Goldman R; *Managing Disruptive Behavior by Patients and Physicians: A Responsibility of the Medical Director;* CJASN Nov, 2014
RESOLVING SPECIFIC EXAMPLES OF PATIENT DISRUPTIVE BEHAVIOR

NON-ADHERENCE TO MEDICAL ADVICE
REFUSING NEEDLE PLACEMENT
REPETITIVELY LATE OR NO-SHOW
IN VolUNTARY DISCHARGE
IMMINENTLY DANGEROUS BEHAVIOR
## FUNDAMENTALS

### Medical Ethics

1. **AUTONOMY**
   - a. ESRD patients have the right to refuse medical advice
   - b. ESRD patients have the right to make bad choices

2. **Beneficence**
   - a. ESRD Clinicians must promote the well being of others

3. **Non-Maleficence**
   - a. ESRD Clinicians must “do no harm” and act in the patient’s best interest

### Legal and Regulatory

1. **LEGAL**
     1) [http://www.ssa.gov/OP_Home/ssact/title18/1881.htm#ft349](http://www.ssa.gov/OP_Home/ssact/title18/1881.htm#ft349)
   - b. Constitutional and Criminal Case Law
     1) Eighth Amendment U.S. Constitution (Cruel and Unusual Punishment)
     2) “Punishment fits the crime”
   - c. Tort Law
     1) Medical Abandonment

2. **REGULATORY**
   - a. Conditions for Coverage

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Rose V.D., Winslade, W. The Law and Ethics of Entitlement in End Stage Renal Disease, Dialysis Patient Provider Conflict Project. January 2005
1. Who is placed at risk by the behavior should determine the severity of the penalty.

2. The penalty should be fair and consistent with the risk. ("punishment fits the crime")
   a) Derived from Eighth Amendment to US Constitution
   b) American justice system principle that the severity of penalty for a misdeed or wrongdoing should be reasonable and proportionate to the severity of the infraction.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
<th>Category</th>
<th>Relative Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nonadherence</td>
<td>Ignoring medical instructions and advice</td>
<td>Self</td>
<td>1</td>
</tr>
<tr>
<td>Theft</td>
<td>The stealing of property</td>
<td>Facility, Others</td>
<td>2</td>
</tr>
<tr>
<td>Property damage</td>
<td>Physical harm or injury that makes something less useful, valuable or able to function</td>
<td>Facility, Others</td>
<td>2</td>
</tr>
<tr>
<td>Non-payment</td>
<td>A refusal or failure to pay money owed</td>
<td>Facility</td>
<td>2</td>
</tr>
<tr>
<td>Abuse</td>
<td>Any words (written or spoken) with an intent to demean, insult, belittle or degrade</td>
<td>Others</td>
<td>2</td>
</tr>
<tr>
<td>Threat</td>
<td>Any words (written or spoken) expressing an intent to harm, or commit violence</td>
<td>Others</td>
<td>3</td>
</tr>
<tr>
<td>Physical threat</td>
<td>Gestures or actions expressing intent to harm, abuse or commit violence</td>
<td>Others</td>
<td>3 +</td>
</tr>
<tr>
<td>Physical Harm</td>
<td>Any bodily harm or injury, or attack</td>
<td>Others</td>
<td>3 ++</td>
</tr>
</tbody>
</table>

Goldman RS; *Seminars In Dialysis*; March-April; 2008
NONADHERENCE TO MEDICAL ADVICE
RESPONSES TO NONADHERENCE TO MEDICAL ADVICE

- Do NOT involuntarily discharge.
- Find out why patients are behaving in a nonadherent way, then act on reason if possible.
- Establish and disseminate patient rights and responsibilities.
- Educate the patient and family about the risks and burdens – i.e. probabilities of impact on quality of life, hospitalization and survival.
- Use contracts, if necessary, to facilitate effective and efficient use of the facilities policies and procedures, NOT as “set-up” for involuntary discharge.

**Use “timed trials,” IMBS Model**
REFUSING NEEDLE PLACEMENT
REFUSING NEEDLE PLACEMENT

LISTEN TO THE COMPLAINT

Is it justified? Others complaining?

YES

OBserve → RETRAIN STAFF → OBSERVE

EXAMINE ACCESS FOR STENOSIS, ANEURISMS, FAILURE TO MATURE

NO

EXCESSIVE ANGER OR FEAR

TEACH SELF CANNULATION†

SELF CARE

HOME HD

† Donato-Moore, S; Nephrol Nurs J; 40(1); pp 37-40; Jan-Feb, 2013
REPETITIVE LATENESS
AND
NO-SHOW

you are late again!!
don't worry, i will leave early to make up for it
REPETITIVE LATENESS OR NO-SHOW

Consider Options to IVD/IVT

1. **Home** Dialysis
2. **Nocturnal** Center Dialysis
3. “Dialysis-By-Available-Slot”
• The patient is instructed about facility policy and procedure concerning repetitive missed appointments, risks of missing treatments, given contact info (same person, phone number, etc.).

• Patient is not assigned a treatment time.

• Patient decides when they need a dialysis treatment.

• Patient calls designated contact, requesting a treatment.

• Contact reviews schedule looking for one open slot on any shift, at any time.

• Patient is assessed upon arrival for need to transfer to ED.

• If patient is stable enough for center treatment, the machine is set up while patient waits.

• Patient receives prescribed dialysis and must adhere to facility policies while present.

• Patient comes off machine when prescribed time is completed or last patient comes off, whichever comes first.

• Process recurs whenever patient thinks they need another dialysis.
INVOLUNTARY DISCHARGES (IVDs)
INVOLUNTARY TRANSFERS (IVTs)

Conditions for Coverage
ESRD Networks Role
Facility Role
Medical Abandonment
CONSEQUENCES OF INVOLUNTARY DISCHARGE OR TRANSFER

- 10-20% mortality rate
- Increased ER, ICU dialyses
- Many lost to follow up
CONDITIONS FOR COVERAGE ALLOWABLE IN VOLUNTARY DISCHARGES (FOUR)

1. The patient or payer no longer reimburses the facility for the ordered services;
2. Facility ceases to operate;
3. The transfer is necessary for the patient’s welfare because the facility can no longer meet the patient’s documented medical needs;
4. The facility has reassessed the patient and determined that the patient’s behavior is disruptive and abusive to the extent that the delivery of care to the patient or the ability of the facility to operate effectively is seriously impaired.

IN THE CASE OF IMMEDIATE SEVERE THREATS TO THE HEALTH AND SAFETY OF OTHERS, THE FACILITY MAY UTILIZE AN ABBREVIATED INVOLUNTARY DISCHARGE PROCEDURE.
Role of ESRD Networks in IVDs/IVTs

1. Thorough review of a facility reporting more than 2 IVD/IVTs per month or 3 IVD/IVTs per quarter

2. Recommend sanctions against recalcitrant facilities.”
FACILITY ROLE IN IN VOLUNTARY DISCHARGE

• Transfer care to another treating nephrologist within that facility.

• Must discharge or transfer

• Governing Body and Medical Director held responsible
PHYSICIANS MUST AVOID MEDICAL ABANDONMENT

To terminate the patient-doctor relationship, a doctor must:

1. GIVE AMPLE WARNING
   a. Conditions of Coverage → 30 days

2. MAKE “REASONABLE” ATTEMPTS TO FACILITATE PLACEMENT
   a. Don’t blacklist or bias other facilities
   b. Give a list of facilities to patient
   c. Call facilities yourself and speak “Director to Director”
   d. Send records promptly
   e. Document everything
RESPONSES TO PHYSICALLY THREATENING OR HARMFUL BEHAVIOR

Immediate or Imminent Serious Physical Harm

https://www.osha.gov/as/opa/worker/danger.html
RESPONSES TO PHYSICALLY THREATENING OR HARMFUL DISRUPTIVE BEHAVIOR

Ensure that providers’ personality, language or cultural issues are not contributing to a significant degree.

If possible, attempt transferring patient to another facility and/or clinician.
- Same group of providers
- Don’t “black list”

If possible, give adequate notice and an opportunity to contest the procedure
- Grievance process or an administrative regulation.

Notify appropriate authorities immediately if there is a credible physical threat or harm.

May refuse to treat for unlawful behavior that puts the lives of others at risk.

Rose V.D., Winslade, W. The Law and Ethics of Entitlement in End Stage Renal Disease, Dialysis Patient Provider Conflict Project. January 2005
Find The Mistakes

What did the person do incorrectly in this scenario?

(check all that apply)

- The charge nurse continued to argue with the patient in front of other patients/family in the waiting room
- The charge nurse sat down with the patient and talked about why he was late
- The charge nurse talked about all the issues that were bothering the patient, like the parking, new staff, and needle sticks, instead of focusing on the main issue at hand (being late)
- The charge nurse immediately confronted the patient about being late, before listening to his reason
Predict The Consequences

What are the likely consequences of the actions of the charge nurse?

(check all that apply)

☐ The patient will know who is boss and will never be late again

☒ The patient and the charge nurse will still be angry after the treatment and will have difficulty discussing any future problems

☒ The new technician will not feel comfortable taking care of the patient because she will think he is a violent patient

☐ The charge nurse will be clearly aware of all the problems the patients are having in the dialysis unit
Fix The Situation

How should this scenario have been handled?

(check all that apply)

- The nurse should have created a calm environment by moving the angry patient to a private area, away from other patients and family members

- The nurse or staff member should have stood more directly over the patient, so they knew who was in charge!

- The nurse should have asked questions very quickly, so the patient would not have had time to answer or argue back

- Staff members should have kept the conversation focused on the issue that started the disagreement, instead of trying to address other unrelated problems

- The nurse should listen to the patient’s point of view before making a judgment or accusing the other person of making a mistake