



ONTARIO NURSES' ASSOCIATION

Managing Disruptive Physician Behaviour

September 2021

The Ontario Nurses' Association (ONA) is the union representing 68,000 registered nurses and health-care professionals, as well as more than 18,000 nursing student affiliates, providing care in hospitals, long-term care facilities, public health, the community, clinics and industry.

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Introduction

Purpose of the Guide

The Ontario Nurses' Association (ONA) has developed this guide to assist its bargaining unit leaders and staff through the multiple processes for dealing with disruptive physician behaviour. This guide includes a synopsis of law and policies applicable to disruptive physicians, as well as guidance and flow charts to help develop appropriate responses when evidence points to a disruptive physician. For behaviour that:

- Is discriminatory or offensive, intimidating, humiliating, threatening, hostile or abusive: see the human rights/grievance and the professional responsibility advice sections.
- Affects a member's practice and/or patient/resident/client care: see the grievance and the professional responsibility advice sections.
- Poses an actual or potential health or safety hazard: see the occupational health and safety advice and flowchart.

What is Disruptive Physician Behaviour?

Disruptive physician behaviour encompasses all sorts of communication and behaviour by a physician that affects nurses' and health-care professionals' practices and/or well-being, patient/resident/client care and may interfere with the health facility's ability to operate in an orderly way.

Disruptive physician behaviour can include (but is not limited to) single or repeated episodes of:

- Persistent lateness in responding to calls.
- Forced changes to policy or processes without input from nursing staff.
- The imposition of idiosyncratic requirements on staff that have nothing to do with quality patient care.
- Public derogatory comments about the quality of care (i.e. public shaming).
- Inappropriate medical record entries concerning staff and/or quality of care.
- The use of profane, rude or offensive language.
- Degrading and demeaning comments to staff or patients.
- Arguments/outbursts of anger including throwing or breaking things.
- Intimidation, bullying, threatening and/or abusive language, tone, innuendos and behaviour.
- Comments or actions that may be perceived as harassing or may contribute to a poisoned work environment.
- Mocking, shaming, disparaging or censuring patients, colleagues and others involved in the provision of health care.
- Boundary violations.
- Sexual harassment.

- Racial, ethnic, religious, sexual or other inappropriate slurs.
- Refusal to collaborate or cooperate.
- Threatening or intimidating physical contact up to and including actual or threatened assault.

For further examples: *Guidebook for Managing Disruptive Physician Behaviour*, pp. 5-6 ([http://www.cpso.on.ca/CPSO/media/uploadedfiles/policies/policies/Disruptive Behavior Guidebook.pdf](http://www.cpso.on.ca/CPSO/media/uploadedfiles/policies/policies/Disruptive_Behavior_Guidebook.pdf)) and *Physician Behaviour in the Professional Environment, Policy Statement #3-16*, p.4.

Disruptive physician behaviour almost always affects nursing practice and a member's ability to provide quality patient/resident/client care, but it can also constitute workplace discrimination/harassment/violence, pose a hazard to a worker and/or patient/resident/client and violate the collective agreement and/or law in the areas of workload, human rights, health and safety and criminal acts.

N.B. Complete documentation of complaints and evidence of disruptive physician behaviour will greatly enhance ONA's ability in all forums to respond to and eradicate this serious problem.

How to Respond to Disruptive Physician Behaviour

If a member should find themselves in immediate danger due to the behaviour of a physician/other staff member/visitor/patient/resident/client, the first step is to ensure safety. Panic button/alarms should be activated. Remove the worker from imminent danger and activate the employer's emergency response protocol, e.g. "CODE WHITE" (an emergency call broadcast over a public address system where a person demonstrates aggressive behaviour). The next step is to CALL THE POLICE.

On the following pages, we outline the additional responses that can be taken in order to address this problem from an occupational health and safety, professional practice, legal, grievance and human rights perspective. Note that all of the recommended actions can be taken simultaneously.

PLEASE CONTACT THE UNION SO WE CAN ASSIST YOU THROUGH THIS PROCESS.

Occupational Health and Safety Response

A worker encounters disruptive physician behaviour that poses an actual or potential health and safety hazard:

Ensure worker safety/treatment

- If a worker is in imminent danger, ensure safety. Activate any panic button/alarm. Remove the worker from imminent danger, activate the employer's emergency response protocol e.g. "Code White," and call police as appropriate (see ***work refusal/work stoppage***, below).
- If a worker is harmed or injured, ensure that s/he is treated medically as appropriate and that others are safe. Complete an Incident Report and file a WSIB claim.

Report your safety concern, engage internal responsibility system (IRS) once the imminent danger removed

- The employer should have conducted violence risk assessments and have separate policies and programs in place with respect to violence and harassment.
- Worker reports health and safety concern to supervisor/employer (section 28, *OHSA*).
- Employers must provide notice to the Joint Health and Safety Committee (JHSC) and the union if a worker is disabled from performing their duties, or requires medical attention, as a result of workplace violence (section 52(1) *OHSA*).
- If a worker is killed or critically injured, the employer must provide notice to the JHSC immediately and the union (section 52(2)), and a member of the JHSC shall inspect the place where the incident occurred.
- Note the collective agreement may have even stronger reporting requirements than the *OHSA*.
- Unresolved concerns raised with JHSC.
- **Consider calling the Ministry of Labour (MOL)** with a complaint (MOL to respond on a priority basis to complaints from workers with limited right to refuse unsafe work).
- If unresolved, consider writing officers and directors of hospital/facility corporation (for sample letter, see *Appendix C* in *Occupational Health and Safety, A Guide for ONA Members*).

Consider work refusal/work stoppage

- Consider exercising right to refuse unsafe work (section 43, *OHSA*, and ONA Guidance Document (*Appendix H* in *Occupational Health and Safety: A Guide for ONA Members*)).
- Certified member JHSC: consider initiating work stoppage process (section 45 *OHSA*.)
- If unresolved after Stage 1 and worker continues work refusal, MOL must be called (section 43 (6) *OHSA*).
- MOL investigates and makes decision.

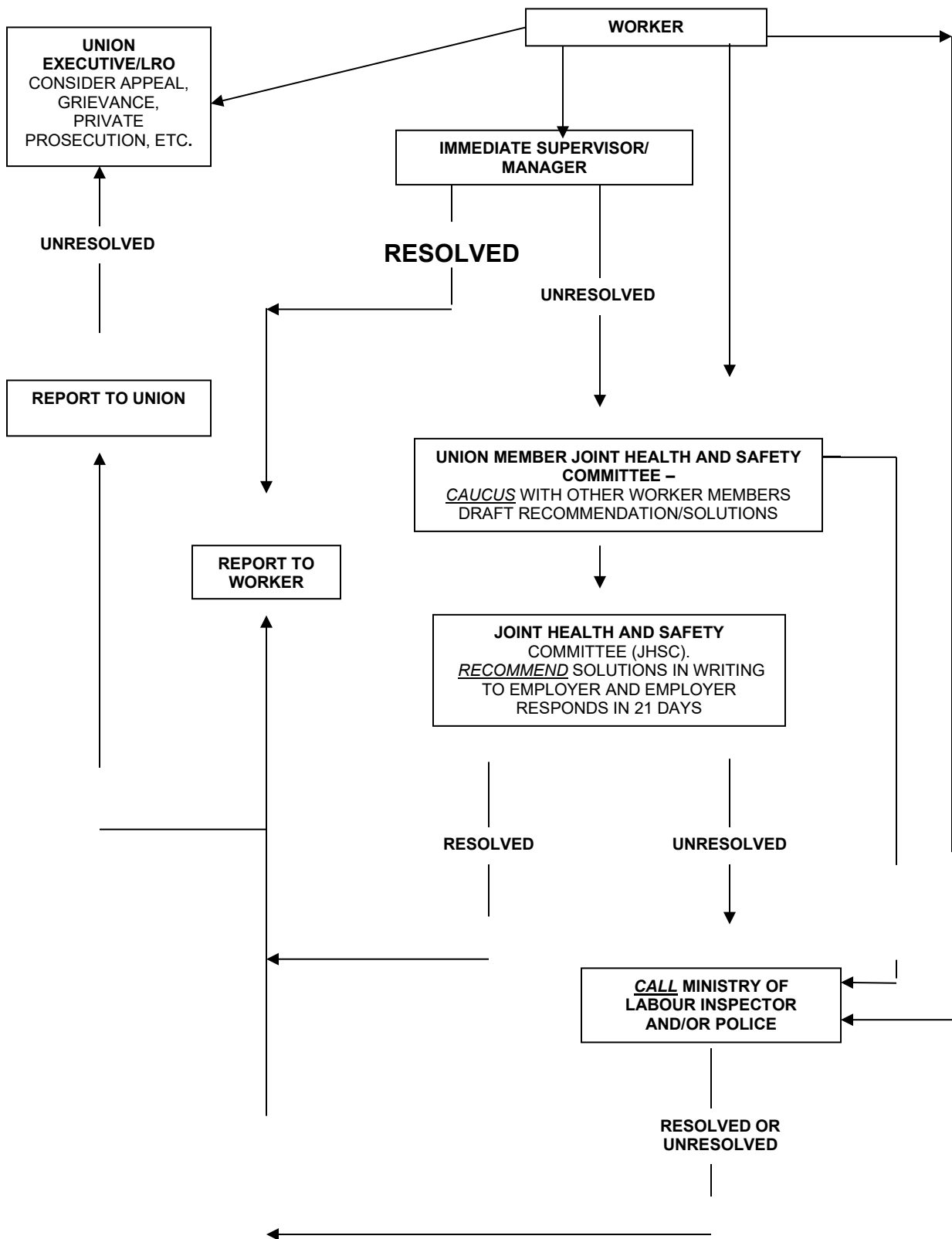
Consider calling police to ensure safety and/or investigate with a view to prosecution for harm to worker

- Everyone who has authority to direct work has a legal duty to take reasonable steps to prevent bodily harm to that person.

Consider filing grievance(s)

Document concerns and evidence of hazard and response to hazard. (Completed Professional Responsibility Workload Report Form (PRWRF) may be copied and used to document health and safety concern when workload creates health and safety hazard).

Resolving Health and Safety Problems Arising from a Disruptive Physician



Professional Practice Response

When nurses or health-care professionals encounter disruptive physician behaviour, it has a negative effect on their practice and patient/resident/client outcomes.

Professional Responsibility Workload report form (PRW report form)

- Complete a PRW report form for every incident of disruptive physician behaviour.

Employer reporting policy

- Follow the employer reporting policy, complete an incident report and make sure risk management is made aware of the incident.
- If there is no employer reporting policy, ensure one is developed. This could be discussed at a Labour-Management meeting.
- Hospitals often have a Medical Advisory Committee that is accountable to deal with these complaints. The complaint is made to Chief of Staff who will then take it to the Committee.

Labour Management Committee

- Discuss the PRW report forms related to disruptive physician behaviour and explain how the incident affected the member's practice and patient/resident/client care/outcomes.
- Develop clear processes for communicating disruptive physician behaviour to management and timelines for a response. See Appendix 1, a memo developed between the Union and the employer.
- Implementation of "Code Nurse" (referred to as Code Pink in other provinces, but can't be used here as we know code pink as a paediatric arrest). This can be agreed to at an Association-Agency Meeting or used by members as an informal method of dealing with disruptive physician behaviour. Members call a "Code Nurse" when there is an incident of disruptive physician behaviour and the member involved with the physician needs support. For example, if a doctor is shouting or being verbally abusive or throwing instruments, Code Nurse is called and all colleagues who can be released from patient care come into the room and stand, silently, staring at the abuser. This has been shown to be very effective. See Appendix 2.
- If unresolved, involve a Labour Relations Officer (LRO) who may also involve a Professional Practice Specialist.

College of Physicians & Surgeons of Ontario (CPSO)

- Member(s) should consider reporting the physician to CPSO or asking their employer to do so. See Appendix 3.

Collective Agreement

- Check the language of your collective agreement regarding professional responsibility and consider filing grievances if the language permits.

Human Rights/Grievance Response

A worker encounters disruptive physician behaviour that is discriminatory or offensive, intimidating, humiliating, threatening, hostile or abusive.

Identify any discrimination or harassment based on prohibited grounds

- Determine if the worker has been targeted for discriminatory treatment or harassment because of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity and gender expression, age, record of offences, marital status, family status or disability.
- Determine if the worker has been subjected to persistent or repeated behaviour or a single incident that is serious in nature
- Determine if there is a poisoned workplace where discriminatory or harassing behaviours cause significant tension and disruption for the targeted individual and for others in the workplace. An example of a poisoned work environment is where a physician continually shouts at, belittles and humiliates a worker in front of other workers.

Identify personal harassment or bullying

- Determine if the worker has been subjected to persistent or repeated behaviour that is offensive, intimidating, humiliating, threatening, hostile or abusive.
- Personal harassment is harassment that is not based on any of the prohibited grounds in the *Human Rights Code*.
- Bullying is usually intentional in nature and an attempt to exert power or control over the target.

Encourage the worker to follow the complaints process in the employer's workplace policies and procedures

- Instruct the worker to report the behaviour to the employer.
- Encourage the worker to file a complaint under the employer's policies and procedures.
- The worker should be assisted and supported by an ONA representative throughout the process.
- Request the separation of the worker and the physician, where appropriate.
- Confirm with the employer that the respondent physician will be notified that the employer prohibits reprisals or threats or retaliation against a complainant for bringing forward a complaint.

Consider filing grievance and proceeding to arbitration

- Speak to a Labour Relations Officer about filing and processing a grievance in accordance with ONA policy.

Instruct worker to keep records

- The worker should keep detailed notes labelled, "Made for my lawyer." Notes should include each incident with the date, time, what happened, names of witnesses, and how the incident made the worker feel. The worker should also request witness statements/reports.

- Worker should keep copies of any letters, memos, text messages, or e-mails from the physician and/or the employer.

Safety Plan

- A safety plan should immediately be established where appropriate in conjunction with the Labour Relations Officer.
- The safety plan should include: provisions to keep the worker and disruptive physician separated, a communication plan to ensure that others in the facility are aware of the plan and its requirements, and a means of obtaining immediate assistance for the worker such as a personal alarm.

Criminal Law Response

Report Crimes to Police

- Workers should report criminal conduct by physicians to police.
- Be truthful as misleading or lying to police is potentially a criminal offence. The police and Crown will determine how to proceed with the information provided.
- If the police choose not to lay charges the worker or anyone with evidence to establish reasonable and probable grounds that an offense was committed (e.g. the unions), can present that evidence to a Justice of the Peace with a view to laying charges themselves.

Physician Privileges

Request Notice of Proceedings at the Medical Advisory Committee (MAC) or Employer's Board or Equivalent:

- Public hospitals are required to have a Medical Advisory Committee which reviews physician privileges and makes recommendations about those privileges to the hospital's governing Board.
- If restricting a physician's privileges is being considered in relation to their disruptive behaviour, a worker may have a direct and substantial interest in those proceedings and be entitled to participate.
- Advise the Medical Advisory Committee (through the Chief of Staff) that the worker requests notice of any proceedings in relation to the physician's privileges before either the Medical Advisory Committee or the Board.

Members should contact their Labour Relations Officer immediately for assistance and should also call ONA's Legal Expense Assistance Plan (LEAP) Team.

Law and Policy Applicable to Disruptive Physicians

Importance to ONA Leaders/Members:

1. Depending on your sector of employment, all or some of the following pieces of legislation can be cited as supporting a violence/harassment-free workplace.
2. Some of these bodies have reporting and investigating authority.
3. ONA's LEAP Team may assist ONA members when an investigation under one or more of these legislations/bodies are involved. Members/leaders should call their LRO and/or LEAP for assistance.

Human Rights

Human Rights Code sections

- 5(1) - Equal treatment in employment without discrimination based on prohibited grounds.
- 5(2) - Freedom from harassment in the workplace based on prohibited grounds.
- 7(2) – Sexual harassment in the workplace.
- 7(3) – Sexual solicitation by a person in position to confer benefit, etc.
- 8 – Reprisals prohibited.

ONA Collective Agreements

Central Hospital Agreement articles

Discrimination and harassment/Personal harassment and bullying

- 3 – Preamble – Commitment to a harassment-free environment.
- 3.01 – No discrimination for exercising rights under collective agreement.
- 3.03 – No discrimination because of prohibited grounds or any other factor not pertinent to employment relationship.
- 3.04(a) – Freedom from harassment based on prohibited grounds.
- 3.04(b)-(c) – Sexual harassment.
- 3.04(d) – Encouraging employees to follow the employer's complaints process.
- 3.04(f) – Union representation.
- 3.04(g) – Right to file grievance.
- 3.04(h) – Promoting measures to deal with discrimination and harassment.
- 3.07 – Ensuring fairness of complaint process.
- 3.08 – Incorporating recommendations from the Disruptive Physician Behaviour Initiative.
- 6.05 – Occupational health and safety.
- 8 – Professional Responsibility.
- Management rights clause in local issues.
- Any Local provisions on Violence and reporting of incidents to the Union.

Whistle-blowing protection

- 3.06 – Whistle-Blowing Protection

Central Nursing Home Agreement articles

Discrimination and harassment/Personal harassment and bullying

- 4 – Preamble – Commitment to providing a positive environment for staff/right to be treated with respect and dignity/right to work in an atmosphere which promotes respectful interactions and is free from discrimination, harassment, and aggression.
- 4.01 – No discrimination for exercising rights under collective agreement.
- 4.02 – No discrimination because of prohibited grounds or any other factor not pertinent to performance with respect to employment.
- 4.03 – Employer must abide by the Human Rights Code.
- 4.04(a) – Freedom from harassment based on prohibited grounds.
- 4.04(b) – Sexual harassment.
- 3.01 & 3.02 – Management rights.
- 6.06 – Occupational health and safety.
- 6.07 – Violence in the Workplace.
- 19 – Professional Responsibility.
- Local language regarding reporting of incidents to the Union.

Professional Responsibility

Collective agreement articles

- See above: PRC clause, Hospital Article 8 and Homes Article 19.

College of Nurses of Ontario

- Professional Standards 2002, Professional Relationships, page 12.
- Practice Guideline, Disagreeing with The Plan of Care.
- Practice Guideline, Conflict Prevention and Management.

Employer policy

- Practice and procedure policies re harassment.
- Code of conduct.
- Vision/mission statement.
- Policies aimed at preventing conflict, abuse and violence (as required under the amended OHSA).
- Hospital by-laws regarding physician privileges and the process for review of those privileges

Occupational Health and Safety

Occupational Health and Safety Act sections

- 25, 26 – Employer duties (take every precaution reasonable to protect workers).

- 27 – Supervisor duties (take every precaution reasonable to protect workers).
- 28 – Worker duties (report hazards).
- 32 – Directors’ and officers’ duties (all reasonable care).
- 32.0.1 – Violence and Harassment Policies.
- 32.0.2-32.0.5 – Violence program.
- 32.06-32.0.8 – Harassment program.
- 43-49 – Work refusal/stoppage.
- 50 – Reprisals prohibited.
- 9 – Joint Health and Safety Committee (JHSC) powers.
- 51 – Employer duty to report if worker is killed, critically injured, disabled from performing her/his duties or requires medical attention.

Note: Amendments to the *Occupational Health & Safety Act* now explicitly recognize sexual harassment in the definition of workplace harassment and provide enhanced obligations on the employer to appropriately investigate and respond to complaints of workplace. This includes the following:

- Section 32.0.6(1): Employers are now required to consult Joint Health and Safety Committees (JHSCs) to develop and maintain written harassment programs.
- Sections 32.0.6(2)(b) and 32.0.7(1)(a): Employers have to ensure appropriate investigations of incidents and complaints of workplace harassment, including a mechanism for victims to report to a person other than the supervisor/employer if they are the alleged harasser.
- Section 32.0.6(2)(d): Employers need to preserve confidentiality of information obtained, “unless the disclosure is necessary for the purposes of investigating or taking corrective action or is otherwise required by law.”
- 32.0.6(2)(e): Results of harassment complaints and investigations, and corrective actions, must be shared with the complainant and the alleged harasser.
- Section 32.0.7(2): Workplace harassment investigation reports are explicitly excluded as occupational health and safety reports that the employer must provide to the JHSC.
- Section 32.0.8: Employers also need to provide information and instruction on the harassment policy and program.
- Section 55.3(1): An inspector can order the employer to pay for an appropriate harassment investigation and report by an impartial and qualified person.

Health Care and Residential Facilities Regulation

- 8-9 – Duties to establish measures and procedures.

Public Hospitals Act

- 33 – Duty to report restriction or cancellation of physician privileges or resignation during investigation.
- 35-43 – Process for review of physician privileges by the Medical Advisory Committee.

Public Hospitals Act - Hospital Management Regulation

- 4 (1) (d) – Health and safety program by-laws.

- 7 (6) – Medical advisory committee shall appoint one or more members of the medical staff to advise the JHSC.

Long-Term Care Act

- Patient Rights – right to live in a safe environment.
- Mandatory reporting if a patient is at risk.

Criminal Code of Canada

- 217.1, 219, 180 – The so-called “Westray sections” re: occupational health and safety duties established by Bill C-45.
- 425.1 – Reprisals prohibited.
- Offences which the physician may have committed including: assault (s. 266); sexual assault (s. 271) or uttering threats (264.1)

Ministry of Labour Operations Division Policy and Procedures Manual

Contains policies about violence investigation and need to respond on a priority basis to complaints from workers with limited right to refuse unsafe work (available in members’ health and safety section of ONA website).

College of Physicians and Surgeons

- *Guidebook for Managing Disruptive Physician Behaviour* – See Appendix 4 <https://www.cpso.on.ca/admin/CPSO/media/Documents/physician/policies-and-guidance/policies/guidebook-managing-disruptive-physician-behaviour.pdf>
- *Duty to Report*: A Hospital must advise the CPSO if a physician's privileges are restricted or cancelled as a result of misconduct or if a physician resigns during an investigation regarding misconduct (section 33, *Public Hospitals Act*; section 85.5, *Health professions procedural code*).
- *Complaints Process* <https://www.cpso.on.ca/Public/Services/Complaints>
- *Medicine Act, 1991, O. Reg. 856/93, Professional Misconduct*: contravening a law or rule of a public hospital which is relevant to a physician's suitability to practice (28); disgraceful, dishonourable or unprofessional conduct (33); or, conduct unbecoming (34).

Disruptive Physician Scenarios and Suggested Responses

Scenario 1

Nurse A is a circulating registered nurse in the operating room. After a surgery on March 23, the nurse reported concerns about Dr. Disruptive to the Medical Director. Dr. Disruptive had undertaken a particular surgical procedure even though he was advised by the nursing staff that they may not have the proper equipment available. He raised his voice to nurses and called them incompetent throughout the procedure. He says women are too stupid for this work. The procedure took two-and-three-quarter hours rather than one hour to complete. Nurse A reported this to the Medical Director because of her concerns regarding compromise to the patient in question.

Scenario 2

In another incident with another nurse a month later, Dr. Disruptive started yelling at her and said that he needed an instrument NOW. His behaviour continued for several minutes. When he handed her a scalpel during surgery, he nicked her glove, tearing it open. Her skin was not cut. After the surgery, though still annoyed, he said his yelling wasn't personal and said the scalpel nick was an accident.

Scenario 3

In yet another incident with another nurse, Dr. Disruptive was performing a needle aspiration on the elbow of a patient with a drug addiction. He approached the nurse with the exposed needle, stating that he needed a gram stain done immediately. The nurse asked him to discard or shield the needle and he responded by purging the contents of the syringe on the floor and followed her into the room with the needle still exposed. Despite repeated requests to shield it, he would not, and she felt increasingly uncomfortable with his behaviour. Dr. Disruptive at that point began to make stabbing motions towards her, laughing at her nervousness. The needle was finally properly discarded. Later, Nurse A expressed her concern to Dr. Disruptive who said he thought it was funny and would do it again. The nurse later learned the patient's elbow aspiration was positive for HIV.

Scenario 4

That week, Dr. Disruptive's scheduled surgery was bumped by another surgeon with a higher-priority case. Dr. Disruptive became angry, loud and aggressive toward Nurse A because he didn't want to be bumped. The nurses continued to set up for the priority case and Dr. Disruptive yelled, "I do not have to put up with this bullshit from stupid bitches." He followed Nurse A, telling her not to continue prepping the suite for the other surgeon and yelled at the nursing staff in the area. She made calls to the chief of staff and nursing director, but no one responded. He continued to badger her at the nursing station, waving his fists in the air, and standing over her yelling, to the point where she was concerned for her physical safety due to his hostile, angry, uncontrolled state.

Scenario 5

One of Dr. Disruptive's patients is released from hospital and discharged to her home with community nursing care to tend to her surgical wound. The community nurse calls Dr. Disruptive to report her observation of possible infection, and to request an order for medication. Dr. Disruptive yells at the nurse on the phone, calls her stupid, and asks if she knows he is not properly paid for such interruptions in his day. He finally prescribes something, then in a raised voice again calls her stupid and slams down the phone. This is the third time in two weeks that Dr. Disruptive has treated this particular nurse this way when she has called him about his patients under her care.

Scenario 6

Dr. Disruptive became obsessed with Nurse B, with whom he sought a romantic relationship. When she spurned his advances, he became angry and started to stalk her. In addition to following her in the hospital and yelling at her whenever he saw her, he also sent her an excessive number of text messages, some of which included threats of violence. He then accessed her personal health records multiple times. When she filed a complaint with Human Resources, he sent a letter to his colleagues, in which he called into question her practice and stated that she was a pathological liar.

Occupational Health and Safety Responses

The employer is required by law to take every precaution reasonable in the circumstances for the protection of a worker. And, as of June, 2010, harassment is covered under the *Occupational Health and Safety Act*. The employer is explicitly required to establish policies and programs with respect to harassment and violence. In addition, workers who believe they are threatened with violence in the workplace may exercise their right to refuse unsafe work (see ONA's *Guide to Occupational Health and Safety* for guidance on a health care worker's right to refuse unsafe work).

Scenario 1 Response:

Dr. Disruptive harassed nurse A and the others during the first surgery above, and as such, the worker should:

- Process her concern via the employer's harassment procedure.
- If there is none, raise the concerns (e.g. Dr. Disruptive is harassing and there is no procedure to address) with the supervisor.
- If concern(s) remain(s) unresolved, the worker can raise the unresolved concern with the Joint Health and Safety Committee (JHSC).
- The committee and/or the worker may complain to the Ministry of Labour if the employer does not prepare a harassment policy and develop and maintain a program for reporting, investigating and dealing with incidents and complaints.

Scenario 2 Response:

Here, Dr. Disruptive's behaviour escalates to workplace violence as defined under the *Occupational Health and Safety Act*. The worker should:

- Raise the health and safety concern with the supervisor.
- If unresolved, the worker(s) can raise the unresolved concern to the Joint Health and Safety Committee.
- If unresolved, the worker and/or the JHSC can call the Ministry of Labour.

Scenario 3 Response:

Here, Dr. Disruptive's behaviour escalates to workplace violence as defined under the *Occupational Health and Safety Act*. The worker should:

- Raise the health and safety concern with the supervisor.
- If unresolved, the worker(s) can raise the unresolved concern to the Joint Health and Safety Committee.
- If unresolved, the worker and/or the JHSC can call the Ministry of Labour.
- In this case, this is arguably an assault, and the police can be called as well.
- In this case, the worker may want to consider her right to refuse unsafe work, and the committee worker member may want to consider a work stoppage.

Scenario 4 Response:

Here, Dr. Disruptive's behaviour escalates to workplace violence as defined under the *Occupational Health and Safety Act*. The worker should:

- Raise the health and safety concern with the supervisor.
- If unresolved, the worker(s) can raise the unresolved concern to the Joint Health and Safety Committee.
- If unresolved, the worker and/or the JHSC can call the MOL.
- In this case, this is arguably an assault and the police can be called as well.
- In this case, the worker may want to consider her right to refuse unsafe work, and the committee worker member may want to consider a work stoppage.

Scenario 5 Response:

Dr. Disruptive's behaviour constitutes harassment and, as such, the community nurse should:

- Process her concern via her employer's harassment procedure.
- If there is none, raise the concerns (i.e., that Dr. Disruptive is harassing and that there is no procedure to address) with the supervisor.
- If concern(s) remain(s) unresolved, the worker can raise the unresolved concern to the Joint Health and Safety Committee.
- The committee and/or the worker may complain to the Ministry of Labour if the employer does not prepare a harassment policy and develop and maintain a program for reporting, investigating and dealing with incidents and complaints.

Scenario 6 Response:

Dr. Disruptive's behaviour constitutes sexual harassment and workplace violence as defined by the *Occupational Health and Safety Act*.

In addition to raising the health and safety concerns with her manager, the nurse could also call the police.

The member should contact ONA, which can advocate to the employer to ensure the member's immediate safety and to negotiate a safety plan. ONA can also raise the issue with the JHSC.

The nurse should also consider filing a complaint under the employer's harassment policy and report Dr. Disruptive to the Medical Advisory Committee (MAC) and/or the Chief of Staff, where she could seek the suspension or revocation of his privileges pursuant to the process established by the *Public Hospitals Act*. If the employer fails to investigate in a timely manner, ONA can call a Ministry of Labour inspector and ask them to order the employer to conduct an investigation into the harassment.

With regards to the privacy breach, the member should seek ONA's assistance. In addition to raising the breach of privacy through the avenues noted above, ONA can assist the member to file a complaint with the Privacy Commissioner and/or the College of Physicians and Surgeons.

NOTE:

In all cases, the worker/Union may want to consider filing a grievance citing violations of any health and safety provisions of the collective agreement and breach of the *Occupational Health and Safety Act*. In addition, the grievance should cite the employer's harassment policy, human rights violations and professional practice violations, as addressed below.

If the Ministry of Labour response to any call is not adequate, the Union may wish to appeal the Ministry's decision.

If the police response to any call is not adequate, the worker/Union may want to consider initiating their own prosecution.

Human Rights Grievance Response

There is evidence that Dr. Disruptive's behaviour:

- Appears directed at female workers.
- Makes derogatory comments toward women.
- Is repeated.
- Causes significant tension in the workplace.
- Constitutes bullying/discrimination.

The worker can:

- Report the incidents of harassment and discrimination to their supervisor.
- File a complaint under the employer's workplace anti-discrimination and harassment policy.
- Request separation from Dr. Disruptive until the employer's investigation is complete under the workplace policy.
- Be represented by the Union, which will confirm with the employer that the respondent physician will be notified that the employer prohibits reprisals or threats or retaliation against a complainant for bringing forward a complaint.
- File a grievance citing violations of the sexual/gender discrimination and harassment provisions in the collective agreement and the protections in the Ontario Human Rights Code.

The worker and Union should:

- Keep detailed notes labelled "Made for my lawyer." Notes should include each incident with the date, time, what happened, names of witnesses, and how the incident made the worker feel. Request witness statements.
- The worker should keep copies of any letters, memos or e-mails from the physician and/or the employer.

Professional Practice Response

This behaviour has an obvious negative effect on the member's practice and their ability to deliver patient/resident/client care. The worker should:

- Complete a PRW report form for each incident that occurs.
- Follow the employer's complaint procedure.
- Discuss the PRW report forms at the ONA/Agency committee.
- Implement "code nurse."
- Consider reporting the physician to the College of Physicians and Surgeons (CPSO).
- Report physician to the Medical Advisory Committee (MAC) and/or Chief of Staff.