

Sexual Harassment in Healthcare

2.0 Contact Hours

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Sexual Harassment in Healthcare

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Objectives:

At the conclusion of this course, the learner will be able to:

1. Define sexual harassment and give examples of harassing behavior
2. Discuss the liability of employers in sexual harassment situations
3. List and describe at least five common consequences of harassment
4. Discuss the incidence of sexual harassment, both generally and in healthcare
5. List and explain three steps employers should use to reduce harassment
6. Identify at least three steps a victim can take to stop harassment

A patient calls you “Sweetie.” A co-worker puts his arm around you as you leave a staff meeting. Your boss suggests the two of you meet after work for drinks to discuss that promotion you’ve been wanting. Harmless or harmful, intentional or unintentional, all of these can be considered sexual harassment, a persistent problem in many workplaces, and a growing issue in healthcare environments.

The American Academy on Communication in Healthcare website defines sexual harassment as, “Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- 1) Such behaviors are unwelcome,
- 2) Submission to such conduct is made explicitly or implicitly a term or condition of an individual’s employment or academic success, or
- 3) Such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creating an intimidating, hostile, or offensive work or academic environment.”

Diane Freeman, writing for Blue Cross Blue Shield of Massachusetts, explains sexual harassment more simply, defining it as, “Any sexual advance or behavior that interferes with your ability to work.”

Whatever your preferred definition, it is important to understand that sexual harassment has no “typical” victim and no “typical” harasser. Victims may be male or female, old or young, confident or timid, rich or poor, attractive or not, supervisor or entry-level, married or single. Harassers can also come from virtually any segment of the population, although there are more male than female harassers and more female than male

victims. Harassment may also occur between sexes or among individuals of the same gender. Sexual harassment is sometimes called bullying, stalking, intimidation or, at its most extreme level, sexual assault.

In addition to understanding what sexual harassment is, it is also important to understand what sexual harassment is not. Consensual relationships between adult co-workers are not regarded as sexual harassment. Reciprocal flirting – playful, nonphysical flirting that is engaged in by both parties – is also generally not termed sexual harassment. In contrast, aggressive or physical flirting or relationships between supervisors and subordinates *are* usually considered sexual harassment.

The Federal Civil Rights Code, the government standard by which sexual harassment is defined, identifies two types of sexual harassment.

- 1) *Quid pro quo* harassment – This refers to situations in which a supervisor or other superior offers benefits or makes threats based on responses to advances. *Quid pro quo* is Latin for “this for that” and encompasses all circumstances in which sexual favors are required to secure positive consequences or prevent negative ones. Examples would include a boss who requires an employee to perform sexual favors to secure a promotion or raise, or a colleague who threatens to spread nasty rumors unless sexual favors are performed. This type of harassment may occur as a single incident or may take place on multiple occasions.
- 2) Hostile Environment harassment – This includes any situation in which an environment becomes sexually aggressive or sexually charged enough to interfere with working ability. A hostile environment can involve verbal harassment, physical harassment, joking or excessive complimenting, or display of explicitly sexual pictures or other content. Examples include co-workers who persist in telling jokes or stories of a sexual nature after they have been told it is inappropriate or a colleague who has a sexually explicit calendar or screen saver in his or her office. This type of harassment cannot be limited to a specific incident; it must be proven through a pattern of offensive behavior over a period of time.

In the healthcare field, hostile environment harassment can also be perpetuated by a patient who persists in making verbal or physical sexual advances on a nurse or other healthcare worker. According to a 2005 MSNBC article on sexual harassment in healthcare, “Federal and state laws protect nurses from sexual harassment by both patients and co-workers.” In fact, sexual harassment does not even need to be intentional; if a patient or co-worker behaves in a way that causes emotional or physical discomfort, it can be sexual harassment.

The concept of sexual harassment becomes more complicated in the healthcare field, particularly when the harasser is a patient. Medical institutions are legally bound by laws obligating them to care for patients, laws which sometimes come in direct conflict with the wellbeing of nurses and other staff members. The situation becomes particularly complex in cases of critical care and mental health issues. In such situations, medical institutions should do their best to meet the needs of both parties, including reassigning staff, moving patients, and other measures to protect the employee while still caring for the patient.

It is vital that employers understand their legal obligations to employees in the face of sexual harassment. A 1998 Supreme Court case – *Faragher v. City of Boca Raton* – established legal responsibility for employers whose employees are being sexually harassed, even if the employer is unaware of the specific incidents. In fact, a 2008 report by Steve Carter points out organizations are held indirectly liable for sexual harassment, even if it is virtually invisible to management or other superiors. And many states allow sexual harassment lawsuits to be filed up to a decade after the harassment took place.

What can employers do to protect themselves? Liability may be reduced if employers provide reasonable avenues for reporting harassment and adequate policies to prevent harassment. The courts have established a three-step program for reducing both employer liability and, more importantly, the incidence of sexual harassment in the workplace.

Employers must:

- 1) Develop a set of documented policies and procedures for identifying and dealing with sexual harassment. These documents must include a working definition for the employer's industry, specific and general actions/words/behaviors that are prohibited, procedures for reporting complaints, and consequences of sexual harassment (including the possibility of termination).
- 2) Distribute the policies and procedures to all employees and contracted labor, including third-party companies that have contact with employees. As part of the distribution, employees should be required to sign and return a document stating they received the policies and procedures and have read and understand their contents.
- 3) Train employees, from entry-level to upper management, on the definitions of sexual harassment and the consequences of such behaviors. Employers should use this time to emphasize the importance of dealing with sexual harassment as soon as it is reported and preventing potential harassment by recognizing

problematic situations. It is important to also review the policies and procedures during this training time and provide tips for helping victims of sexual harassment cope with the situation.

Having and distributing policies and educating the workforce are important steps for any employer in any industry, regardless of business size or type. Sexual harassment is a prevalent problem, but incidence can be hard to track, as experts cite that up to 94% of victims take no action (Freeman, 2008). In general, predictions range from 40 to 70% of all female workers will be sexually harassed at some point during their career (Freeman, 2008). Harassment of men is a trickier subject, and fewer sources of quantitative data exist.

In the healthcare field, the incidence of sexual harassment may be significantly higher than in other fields, although few recent studies have been conducted to affirm this. A 1982 study showed more than 60% of nurses had experienced sexual harassment at work, either from patients or colleagues (MSNBC, 2005). Experts believe inappropriate behavior among patients to be a widespread problem. Such harassment often ranges from offensive jokes to inappropriate touching to occasional reports of sexual assault. In fact, Belinda Heimericks of the Missouri Nurses Association asserts a majority of nurses have been harassed by patients and she predicts, “Nearly every nurse will run into it at some time in their career” (MSNBC, 2005).

With such a high rate of occurrence, nurses and other healthcare workers need to be aware of the potential physical, emotional, and psychological ramifications of sexual harassment. Studies have shown that sexual harassment by patients creates a unique type of tension and stress for healthcare workers. Harassed workers often feel torn between a desire for self-protection and self-preservation and their professional duty to care for patients (MSNBC, 2005). As a result, nurses and other healthcare workers often try to sternly reject the behavior or crack jokes about the situation. They continue to care for the harassing patient, but become emotionally distant and tense.

The consequences of sexual harassment can be much more far-reaching, however, than simple stress and tension. Sexual harassment effects are classified in three general categories: emotional consequences, psychological consequences, and physical consequences. Most victims of sexual harassment experience at least a few of these symptoms, and many victims find harassment traumatic enough to interfere with work, leisure, and relationships.

Emotional consequences are among the most common issues for victims of sexual harassment. Guilt, shame, and self-blaming are particularly prevalent, and are primary reasons sexual harassment often goes unreported. There are also emotional consequences, such as fear of retaliation and hopelessness, which make it hard for a victim to confront or break away from a harasser. On the flip side of the equation, emotions like anger and loss

of control make it easy to confront a harasser, but can also make a victim more likely to suffer negative personal and career repercussions.

Emotional Consequences of Sexual Harassment:

- Feelings of anxiety
- Confusion
- Embarrassment
- Guilt
- Shame
- Denial
- Fear of retaliation
- Emotional numbness
- Humiliation
- Self-blaming
- Anger
- Helplessness
- Hopelessness
- Loss of self-esteem
- Loss of control
- Loss of trust

Deeper and often more lasting than the emotional consequences of sexual harassment are the psychological consequences. These range from mild circumstances, like difficulty concentrating, to the extreme of suicide. Several of the most common psychological effects of sexual harassment center on sensations of anxiety or panic, these include a range of stress disorders and anxiety or panic attacks. Depression and issues with intimacy are other common issues experienced by victims of sexual harassment.

Psychological Consequences of Sexual Harassment:

- Hyper-vigilance
- Acute stress disorder
- Nightmares
- Difficulty concentrating
- Depression
- Sexual identity issues
- Anxiety/panic attacks
- Post-Traumatic Stress Disorder (PTSD)
- Intimacy issues
- Withdrawal/social isolation
- Suicide/suicidal thoughts

Nearly as common as emotional and psychological consequences of sexual harassment are the physical effects. These challenges can be extremely disruptive to a victim's career, relationships, and quality of life in general. Headaches, sleep disturbances, and fatigue are the most common physical consequences of sexual harassment. Less common, but even more devastating, are stomach and gastrointestinal disorders that can result from the stresses associated with sexual harassment. These include conditions such as irritable bowel syndrome (IBS) and ulcers. Physio-

psychological disorders are also common, blending psychological phenomena and physical symptoms, such as eating disorders and sexual dysfunction.

Physical Consequences of Sexual Harassment:

- Headaches
- Sleeplessness/insomnia
- Fatigue
- Stomach disorders
- Gastrointestinal disorders
- Eating disorders
- High blood pressure
- Sexual dysfunction

When sexual harassment has occurred in a workplace or healthcare environment, it is important for supervisors to take action to protect the victim(s). If the harasser is a patient, it is vital for supervisors or administrators to ensure that there is no one-on-one contact between victim and harasser; there should always be a third party present. Whenever possible, contact should be totally avoided. It is also important in any environment for supervisors to address the situation directly with the harasser, clearly spelling out the consequences for the harassment and any further consequences should the harassment continue.

While supervisors and administrators have fairly clear-cut responsibilities once harassment has been reported, a victim's responsibilities are often less clear, lost in the jumble of uncertainty and emotion that accompanies harassment. It is important that a victim expresses his or her discomfort to a harasser as soon as possible. What is interpreted as harassment by one person may be simple admiration or innocent joking by the harasser. Clear communication is often all that is necessary to stop harassment. When the harassment doesn't stop, however, there are four basic steps victims can take to protect themselves and stop harassment.

Step 1: Confront the Harasser

- Make contact directly or through a third-party mediator
- Name the harassing behavior, being as specific as possible
- Demand that the harassing behavior stop immediately
- Stand your ground, no matter what excuses the harasser makes
- Don't allow yourself to be distracted; stay focused on addressing the harassment

Step 2: Document Continuing Harassment

- Keep a log of all harassment, including date, time, behavior, witnesses, etc.
- Save any harassing notes, mail, or email in a safe place at home
- If it is legal in your state, make voice or video recordings of harassment
- Keep records of any negative repercussions or consequences of harassment

Step 3: Make a Formal Complaint

- Use established channels and procedures for reporting harassment
- Find any other victims of the harasser and ask them to join you in your complaint
- Document any retaliation you experience for your complaint; retaliation is illegal
- Keep detailed notes of all meetings (including telephone and virtual meetings)
- Don't express anger or hostility; remain calm and professional

Step 4: Take Legal Action

- Contact a lawyer to discuss your legal rights and responsibilities
- Make note of any statutes of limitations that exist in your state or area

It is also important for victims to familiarize themselves with the policies and procedures of their employer or healthcare facility. Different employers and facilities have different resolution processes and different resources for victim advocacy. Victims should not be closed-minded about resolution. There are many avenues for resolution that may operate outside of the four basic steps listed above. Some alternate solutions include informal resolution, group therapy, third-party mediation, etc. The important thing is finding a resolution that protects the victim and stops the harassment.

Sexual harassment is a major issue, particularly in a healthcare environment. We have seen that, statistically speaking, most healthcare workers will experience some form of sexual harassment at some point in their career. It is easy to treat harassment as a taboo subject or try to explain it away as unimportant or nothing major. But sexual harassment is a big deal, and no one should

have to endure harassment to do their job. The consequences of harassment are too far-reaching to ignore.

If you have been the victim of harassment, it is important to tell someone and seek help to stop the harassment. If you know someone who is experiencing harassment, it is important to encourage him or her to speak up and take the necessary steps to correct the situation. Stopping sexual harassment is a collective responsibility, and communication and confrontation are the first steps toward bringing an end to the humiliation, embarrassment, shame, and injustice of this heartbreakingly common situation.

References:

American Academy on Communication in Healthcare. (Not Dated) "Sexual Harassment." www.aachonline.org/downloads/SexulHarassmentPolicy.pdf. Accessed on 10/30/2008.

Brown University Health Education. (2008) "Sexual Harassment." www.brown.edu/Student_Services/Health_Education/sexual_as_sault/sh.htm. Accessed on 10/31/2008.

Carter, Steve. (2008) "Preventing Sexual Harassment in the Workplace." Risk Managers' Forum. www.roughnotes.com/rnmagazine/search/management/08_08P070.htm Accessed on 10/31/2008.

Freeman, Diane. (2008) "Preventing Sexual Harassment." Blue Cross Blue Shield of Massachusetts. www.ahealthyme.com/topic/harassment. Accessed on 10/31/2008.

MSNBC. (2005) "Inappropriate Behavior Tough on Nurses." www.msnbc.msn.com/id/10484939/from/RL.2/. Accessed on 10/31/2008.

Sexual Harassment Support. (Not Dated) "Sexual Harassment." www.sexualharassmentsupport.org. Accessed on 11/05/2008.