Coffee Talk
A Health Industry Seminar Series
Strategies for Managing Difficult Clients / Family Members

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Agenda

1. Organizational requirements
2. Addressing difficult behaviours
3. Risk management strategies & best practices
Common Types of Disruptive Behaviours

• Abuse and Harassment
  • Emotional, verbal, physical, sexual
  • Staff, resident, client, others

• Non-compliance
  • Care Plan
  • Organizational Policies, Procedures, etc.

• Excessive/inappropriate demands

• Actual interference in care
Potential Implications

• Compromise ability to provide quality care
• Ability to meet legal and professional obligations
• Demands on limited resources
• Negative effect on staff (morale, lost time)
• Negative effect on clients, family, others
• Escalation to regulatory/legal situation
Organizational Responsibilities

Overriding duties:

• Ensure quality of care
• Protect safety of clients, staff and others
• Ensure safe workplace environment
• Duty to Report (e.g. child abuse, RHPA)
• Organization – specific regulatory obligations
Workplace Violence & Harassment

• Common law duty to protect staff and others from harm

• Implied term of employment contract to protect from harassment and violence in workplace

• Obligation to protect from harassment and take reasonable steps to protect against workplace violence
Legislation and Regulations

• Ontario *Human Rights Code*
• *Occupational Health and Safety Act*
  • 2010 Amendments – Bill 168
• OHSA Reg. 67/93: Health Care and Residential Facilities
• Facility-specific legislation (e.g. LTCHA, *Public Hospitals Act*)
Definitions - OHSA

Workplace Harassment
- Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably be known to be unwelcome

Workplace Violence
- Exercise of physical force by a person against a worker in a workplace that causes or could cause physical injury; or
- An attempt to exercise physical force; or
- A statement or behavior that is reasonable for a worker to interpret as a threat to exercise physical force
Duties of Employers (OHSA)

• Employers must:
  • Prepare/review policy on workplace violence
  • Develop/maintain a workplace violence program
  • Assess risks of workplace violence that may arise from nature of workplace, type of work, or conditions of work
  • Provide information to employees
Duties of Employers (OHSA)

- Workplace Violence Program
  - To control identified risks of workplace violence
  - For summoning immediate assistance when workplace violence occurs or is likely to occur
  - For workers to report incidents of workplace violence
  - Set out how employer will investigate and deal with incidents or complaints of workplace violence
Duties of Employers (OHSA)

• Workplace Violence Assessment
  • An employer must assess the risks of workplace violence that may arise from the nature of the workplace, the type of work or the conditions of work
  • Advise the JHSC or representative or workers of the results of the assessment
  • Reassess the risks as often as is necessary
Incidents may trigger reporting

• Ministry of Labour
  • Investigations under OHSA, compliance orders
  • may result in charges under the *Provincial Offences Act*, fines

• MOHLTC
  • Reporting of critical incidents and complaints
  • Investigations and compliance orders
Responsibilities of Health Care Providers

• Health professionals subject to own obligations which vary depending on profession and circumstances
  • Obligations owed to patient and others
  • Practice Guidelines (i.e. Nurse Abuse)
  • Ability to withdraw
• Expected to comply with obligations of employer
• Organizational and provider responsibilities can differ and at times conflict
Addressing Difficult Behaviours

• Response depends on the behaviour
  • Pattern, or single egregious act?
  • Intent – related to underlying medical condition (i.e. responsive behaviour) or intentional?
  • How perceived by others
  • Impact on patient/client
  • Impact on others
  • Impact on ability of facility to meet obligations
Proactive vs. Reactive

• Organizational mechanisms:
  • Mission, vision, values
  • Culture of safety
  • Policies, procedures, rules
  • Resources – i.e. training and education, staffing, contingency plans
  • Programs and systems – i.e. prevention, identification, reporting, investigation, follow-up
Proactive vs. Reactive

- Can’t always anticipate or prevent disruptive behaviour
- Intervention may be required where individual behaviours and demands
  - compromise care
  - negatively impact staff
  - impair the therapeutic environment
Legal Advice

• Consider contacting legal counsel early on:
  • Identify your legal rights and obligations
  • Assist with assessing risk
  • Identify possible options and solutions
  • Solicitor and client privilege
  • Investigations and communications
Risk Management: General Approach

1. Identify (and understand) the issues
2. Explore options
3. Formulate strategic response
4. Communicate concerns
5. Establish expectations for behaviour
6. Follow through
1. Identify the Issues

• What are the concerns?
• Impact and implications (actual and potential)
• What may be driving/influencing the behaviours?
• Feedback and insight from care team? Others?
• Internal/external resources and supports
• What are legal and professional obligations? (Legal advice, ethics consult)
2. Explore Options

• Tools may include:
  • Care plan
  • Family meeting(s)
  • Offering supports and services
  • Behavioural contracts
  • Police assistance
  • Trespass
  • Peace bond ("restraining order")
  • Legal/regulatory options
  • Discontinue services (transfer, discharge)
Disruptive Family Members

• Where concerns about family members/friends:
  • Consider status of individual
    • Are they a caregiver(s)? SDM?
    • Capacity of patient – may fluctuate/depend on decision
    • SDM disputes – “dueling decision makers”, POA/Guardianship, custodial vs. non-custodial parents, minors
    • Scope of decision-making – HCCA, PHIPA, SDA
  • right to receive information / be informed

• Need to ensure you are dealing with the correct individual(s)
Comprehensive Care Plan

• Can assist with addressing behaviours in certain circumstances (i.e. fluctuating capacity, wishes)
  • Define expectation
  • Management of demands
  • Support consent process
• Establish common understanding
• Can refer to going forward
Family Meetings

• Utilize client/family meetings and conferences to identify concerns and manage expectations
  • Address concerns directly
  • Set out expectations
  • Document as appropriate
  • Follow up in writing, as appropriate
Supports and Services

• Offer institutional or other support services (e.g. pastoral care, social work, counseling, system navigation) to the patient, SDM and/or family member
  • Support for psychosocial and spiritual needs
  • Manage stress and frustration levels
  • Manage expectations
  • Determine plan
The “Behavioural Contract”

• Role of individual re: patient/client?

• Not really a “contract” - establish/communicate:
  • Expectations/appropriate behaviour
  • Terms of engagement for all parties involved
  • Consequences for failure to comply

• Be specific – provide in writing
Police Assistance

• Contact police if immediate safety concern, threat or illegal activity
  • Organizational policies
  • Individual may lay criminal charges or police may do so independently
• If threat, police may place restrictions on individual (i.e. peace bond)
Trespass

• Legislation conferring authority on owner/occupier to:
  • Ask person to leave premises
  • Prohibit / restrict future access to premises

• Statutory – need to ensure requirements are met
  Police can assist in enforcing – failure to comply is regulatory offence

• Helpful to have established processes
• Longer term → written Notice Prohibiting Entry
Peace Bond ("Restraining Order")

- Enforceable under the Criminal Code
- Restrain an individual from having contact, as specified in order
- Can be obtained by police or individual legal process
- Must demonstrate that elements are met
  - Reasonable grounds to fear that individual will cause personal injury to self or family, or damage property
Legal/Regulatory Options

• Identify whether specific behaviour is illegal or otherwise actionable
  • cease and desist letter
  • commence legal proceeding (i.e. defamation)
  • pursue criminal charges
  • Duty to report (i.e. child abuse?)

• Recourse if individual is responsible for decision-making (e.g. Ontario – Consent and Capacity Board, PGT)
Discontinue Services

• Ability to transfer, discharge or discontinue services will depend upon the organization/professional

• Must consider legislative, professional, ethical and contractual obligations, if any
3. Formulate Strategic Response

- Comprehensive, relevant, proportionate, responsive to issue(s) and concerns
- Ensure staff feel supported
- Consider legal/professional/ethical rights and responsibilities, risk
- Establish lines and means of communication for all
Communication Strategy

• Important for ensuring limits set and expectations managed
• Ensuring staff feel supported
• Lines and means of communication - consider having designated contact(s) (for family and for staff)
• Consistent messaging
• Monitoring and feedback
• Maintain record of issues and steps taken
  • Legal privilege
  • What goes in patient record?
6. Follow Through

• Ongoing support of staff
• Mechanisms for obtaining feedback
• Need to be willing to “enforce”
• Re-visit and re-evaluate where necessary
• When need to escalate?
Questions?

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