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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 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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