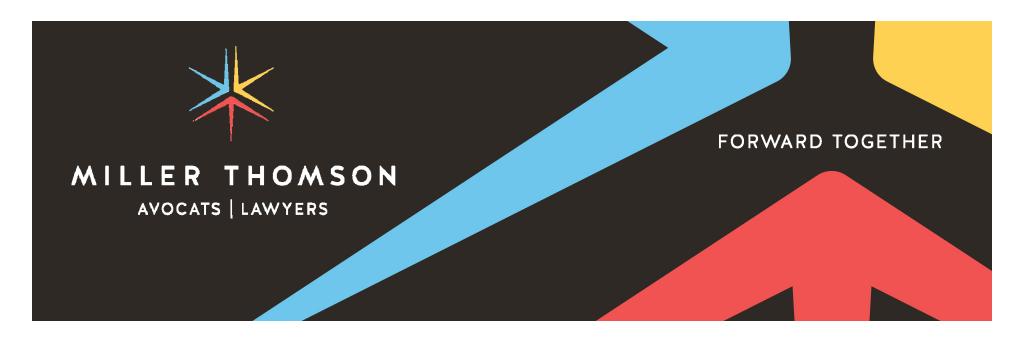


# Coffee Talk A Health Industry Seminar Series





# 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 <u>reasonable steps</u> 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

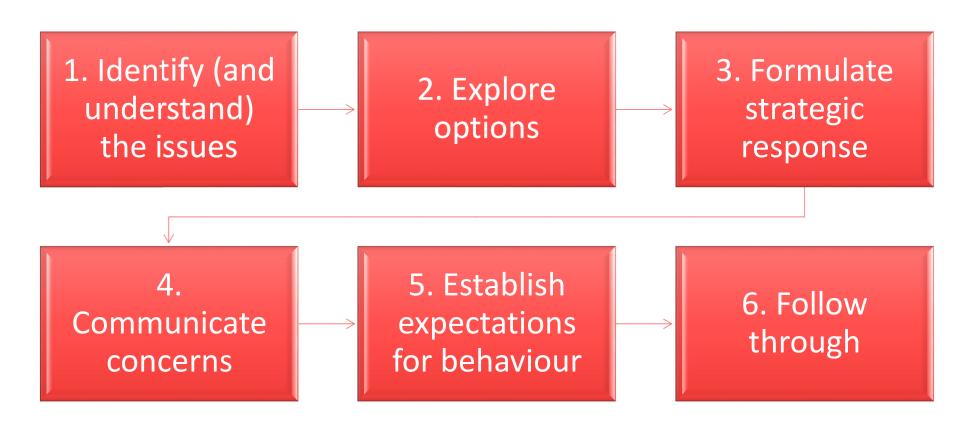
#### Proactive vs. Reactive

- 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 decisionmaking (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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#### FORWARD TOGETHER



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