

# Guidance Varies on Handling Disruptive Doctors

BY JOYCE FRIEDEN

WASHINGTON — Should physicians whose behavior is seen as disruptive be allowed to find out who is complaining about them? That depends on who you ask, David J. Hyman said at the annual meeting of the American Health Lawyers Association.

Mr. Hyman, a health care lawyer in Tulsa, Okla., reviewed recently issued guidance to health care facilities on dealing with disruptive physicians. The guidance was issued by two different organizations: the American Medical Association and the Joint Commission.

The AMA's model bylaws on dealing with disruptive physicians say that "the accusation or complaint—and this is key to their approach—has to be written and signed; there are no secret allega-

tions under the AMA code, no Star Chamber here," he said. "This is counter to many practices going on at hospitals, and implicitly counter to the Joint Commission's approach," which allows for anonymous complaints.

Many facilities allow for anonymous complaints and for withholding the details of what happened and when from the physician. That's because the physician could surmise from a fuller description who was involved, and the fear is that the doctor will take some sort of retributive action against the complainant, according to Mr. Hyman. "The AMA code addresses this by saying, 'Doc, you cannot take any retaliation against anybody who complains or is listed [on the complaint]. If you do, the heavy weight of sanction can be dropped on you for that alone.'"

Based on their guidelines, the Joint Commission appears to favor anonymous reporting. "If you can report anonymously, then you feel free to do it. On the other hand, [the person reporting] may just not like the doctor, and [think], 'I'm gonna get him.'"

Allowing for anonymous complaints and withholding of details can be upsetting for the accused physician, Mr. Hyman pointed out. "The doctor's in a very frustrating position, saying, 'I didn't know I was doing it. I don't think I'm a bad guy, but you've got to tell me what it was I did.'" Staff members handling the complaint then refuse to tell the physician the circumstances of the complaint even when the physician promises not to retaliate, leaving him unable to figure out what he did wrong.

Dr. Tobie Bresloff, chief quality officer

at the Oklahoma Heart Institute, in Tulsa, noted that complainants should not be told what was done as a result of their complaint, even though that policy brings some grumbling.

"You need to say to that person, 'We have acted on it. We have a way to deal with these things; we will take care of it.' But they do not get [a report] if you talk to the doctor... or if the doctor gets a 20-day suspension. That is not their right to know. Just assure them it will be taken care of."

*The Joint Commission's "Sentinel Event Alert" on disruptive physicians can be found online at [www.jointcommission.org/SentinelEvents/SentinelEventAlert/sea\\_40.htm](http://www.jointcommission.org/SentinelEvents/SentinelEventAlert/sea_40.htm). The AMA's model bylaws can be found at [www.ama-assn.org/ama1/pub/upload/mm/21/medicalstaffcodeofconduct.pdf](http://www.ama-assn.org/ama1/pub/upload/mm/21/medicalstaffcodeofconduct.pdf).*

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