



Protecting the Profession

A Resource for Physician Leaders



What is the purpose of this information?

The problems of egregious ethical violations in healthcare

Through a study funded by the NIH National Institutes on Aging, our team reviewed the literature and analyzed 280 cases of serious ethical violations in medicine¹. Serious ethical violations include sexual abuse of patients by physicians, criminal prescribing of opioids, and performing unnecessary surgeries.

The majority of healthcare professionals are trustworthy and follow the rules of their profession and the law. However, a few use their professional power to access and prey on trusting patients. Stories in the news such as that of Larry Nassar, who sexually assaulted hundreds of patients under the guise of performing medical exams², or Farid Fata, a Michigan oncologist who intentionally misdiagnosed hundreds of patients so he could treat them with chemotherapy and gain financially³— raises an important question: how is it possible for these assaults continue for so long?

Physicians and institutions are in a perfect position to help

It may be challenging to stop wrongdoing before it happens; however, physicians and institutional officials are often in a position to identify and report bad actors quickly and stop wrongdoing so it does not continue. Protecting the safety of patients requires that peers and institutions recognize wrongdoing early and that medical boards take decisive action.



Illustrating the Problem at Hand: the Case of Larry Nassar

Larry Nassar was the team physician for U.S.A. Gymnastics and an assistant professor at Michigan State University (MSU) who sexually assaulted more than 265 athletes– including children as young as six.⁴ Understanding what factors perpetuated this egregious behavior and what steps could have been taken to prevent it can provide guidance on what physicians and institutions can do to be more vigilant about responding to physician misconduct

A Series of Red Flags

Larry Nassar attended medical school at MSU seeking an osteopathic medical degree but was almost dismissed after two semesters due to failing classes.⁵ Throughout his career, Nassar regularly saw patients at his home or in hotel rooms without the presence of a professional medical chaperone.⁶ Additionally, while working at the Karolyi Ranch in Texas, Nassar practiced without a license but was not reprimanded.⁷



Illustrating the Problem at Hand: the Case of Larry Nassar

Consistent, Unearned Trust from Others

In 1997, a gymnast complained to an MSU gymnastics coach. However, the coach discouraged the gymnast from filing a formal complaint, and instead informed Nassar of the conversation.⁸ Other athletes complained to coaches, trainers, and multiple therapists and counselors, who again did nothing. Parents complained to institutional officials and even to the police.⁹ Regardless of mandatory reporting laws and the sheer number of complaints against him, Nassar continued to practice. Because of the protective culture that routinely benefitted him, Nassar was able to abuse patients on an unprecedented scale. Nassar was indicted on state charges of sexual assault of a child from 1998 to 2005.⁹



The Nassar Case: Extreme but Not Isolated

Responsive Action taken Far too Late

After more than 20 years of accusations, U.S.A. Gymnastics finally cut ties with Nassar.¹⁰ However he continued to practice for two more years at MSU and at a local high school, until he was finally fired from MSU and indicted on federal child pornography charges in 2016.⁹

Larry Nassar abused patients on an extreme scale, however the problem behaviors he exhibited are not uncommon. In truth, unethical behaviors by physicians, such as fraud, abuse, and improper prescribing, often affects multiple patients and may go undetected for months or even years.

This guide provides direction for physicians and institutional leaders to prevent and respond to ethical wrongdoing by following five specific steps—the 5 R's

The Five R's



RECRUIT

Recruit people who embrace the positive, core values of medicine



RECOGNIZE

Recognize problem behaviors



REPORT

Report wrongdoing



REMEDiate

Remediate early



REMOVE

Remove the most egregious wrongdoers



RECRUIT



RECRUIT



RECOGNIZE



REPORT



REMEDiate



REMOVE

RECRUIT TRAINEES, PHYSICIANS, AND STAFF WHO EMBRACE THE POSITIVE CORE VALUES OF MEDICINE

When dutiful individuals are accepted to medical school or hired in healthcare organizations, it creates a culture where unethical behavior is both rare and not tolerated.

- Throughout the recruitment process, clearly articulate institutional commitment to the positive core values of medicine¹¹
- When seeking letters of recommendation or references, pay special attention to matters of character
- When hiring, use the National Practitioner Data Bank and related resources to identify individual histories of ethical violations^{12*}
- Be honest about performance and character when serving as a reference for a former employee, or refuse to serve as a reference

**Unfortunately, the most commonly used categorizations of violations are “not specified” and “other.” Later we address the need for improved reporting and tracking processes.*



RECOGNIZE



RECRUIT



RECOGNIZE



REPORT



REMEDiate



REMOVE

RECOGNIZE PROBLEM BEHAVIORS

Sometimes peers or colleagues are uncertain when behaviors cross a line. In other cases, wrongdoing is permitted to continue because there is very little oversight. Recognizing problem behaviors and creating an environment where recognition of problem behaviors can occur is imperative to ensuring the expectations of the practice, institution, and healthcare profession are being met.

- Establish clear guidelines and policies on medical practice and sexual boundary issues
- Train physicians and staff to recognize violations of guidelines, policies, and laws
- Increase the transparency of physician practices through the routine use of chaperones, prescription drug monitoring programs, peer audits, 360° feedback surveys¹³, and increased presence of staff and trainees¹⁴
- Advocate for system reform for improved data collection protocols to track serious violations effectively, making it easier to recognize people with a history of serious violations



REPORT VIOLATIONS



RECRUIT



RECOGNIZE



REPORT



REMEDiate



REMOVE

Patterns of known unethical behavior may go undetected for months or even years. This often happens when witnesses feel unsafe reporting, are unsure to whom they should report, or when entities processing and tracking reports fail to keep detailed and useful records.

- For medical students, train faculty to report to the dean or similar office to track students' violations for the entire duration of their time in school
- When reporting physician wrongdoing, avoid the use of vague classifications (e.g. not applicable, other). Rather, describe the specific behavior
- Establish clear and safe policies and procedures for employees to report suspected or known wrongdoing
- Take all reports seriously, and thank individuals who do report
- Train employees to offer guidance to patients on how to report to the State Medical Board or the police¹⁵
 - Visit www.BeforeYourVisit.org to learn more about reporting options



REPORT VIOLATIONS

- Know what you are required to report, and educate employees to know what they are required to report¹⁵. In many cases, there are federal or state laws that mandate reporting for the types of wrongdoing listed below. There are often reporting mandates from organizations, funders, institutions, and the Federation of State Medical Boards.

Obligations to report may go beyond the law.

Events that physicians and institutions may be mandated to report:

- *Fraud*
- *Sexual misconduct or sexual abuse*
- *Physical abuse or neglect of a patient*
- *Prescribing drugs in excess or without legitimate reason*
- *Conviction of a felony*
- *Dishonesty during the license application process or failing to meet continuing medical education requirements*
- *Inadequate record keeping*
- *Failing to meet the accepted standard of care in a state*



REMEDiate



RECRUIT



RECOGNIZE



REPORT



REMEDiate



REMOVE

REMEDiate EARLY

Physicians get into trouble for a variety of behaviors ranging from minor mistakes to major indiscretions or criminal behavior. For more minor infractions, rehabilitation education is an important tool that institutions should have. Rehabilitation programs help good doctors gain professional skills, learn how to manage stress and anger, and become better communicators.

- Identify those who need remediation early. Keep in mind that sometimes more minor violations precede or accompany more serious violations
- When appropriate, intervene early with evidenced-based programs such as:
 - The Vanderbilt [Center for Professional Health](#) (CPH)
 - University of California San Diego [Physician Assessment and Clinical Education](#) (PACE) Program
 - University of California San Diego [Continuing Medical Education](#) Program
- Reassess skills, oversight, and practice requirements



REMOVE



RECRUIT



RECOGNIZE



REPORT



REMEDiate



REMOVE

REMOVE THE MOST EGREGIOUS WRONGDOERS

As seen in the case of Larry Nassar, certain unethical behaviors cannot be remediated. In cases of egregious or persistent wrongdoing, the best course of action is to remove the individual from the profession. In some cases, this step may require cooperation among the institution, State Medical Board, and law enforcement.

- When necessary to protect patients, do what it takes to efficiently remove a medical student or physician from the medical profession. This may involve:
 - Reporting physicians to appropriate investigating bodies
 - Cooperating with investigations
 - Terminating enrollment or employment
 - Report findings or actions to the National Practitioner's Data Bank or other appropriate organizations

ABOUT US

Investigating Egregious Wrongdoing in Medical Practice

The goal of this project was to examine individual and environmental factors that predict serious breaches of medical ethics with the aim of developing prevention programs. The research team analyzed 280 cases in three areas of clinical wrongdoing: improper prescribing of controlled substances, sexual abuse of patients, and fraudulent, unnecessary invasive procedures. While these behaviors are relatively rare among physicians, they are very damaging to patients and harm public trust in medicine. A working group of experts convened in St. Louis to discuss the data and develop recommendations for action related to education, remediation, policy, and oversight.



WANT TO LEARN MORE?

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EDUCATIONAL SLIDES FROM THIS PROJECT INCLUDE:

For Patients:

BeforeYourVisit.org

For Physician Leaders:

ProtectingTheProfession.org



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