According to the Workplace Bullying Institute (WBI), approximately 35% of American workers have experienced some form of workplace bullying firsthand. This represents roughly 53.5 million Americans. An additional 15% of workers have been witness to acts of bullying.1

In 2013, millions of viewers watched footage on social media outlets of former Rutgers coach, Mike Rice, as he screamed, pushed, kicked, and threw items at his players during basketball practice. These actions are unquestionably characteristic of a bully. Rice describes his own behavior as passionate, emotional, and intense, but does not consider himself to be abusive or a bully.2 This was not an isolated event for Rice but his behavior was never formally addressed or challenged because he was able to achieve desired results from the team. It wasn’t until there was public outcry that he was terminated from the university.

Although workplace bullying occurs in many varying professions, from blue-collar jobs to academia, it is most prevalent in the medical profession.3 The reasons for such high levels of bullying in medicine are not fully known or understood, but are thought to stem from the high stress work atmosphere, a rapidly changing environment, the concept of “doing more with less resources,” the hierarchal structure and the learning setting. As one physician stated, “the culture that perpetuates bullying goes back as far as medical school, when as students, future doctors are trained in a pecking order not unlike the military.”4

Professions within the medical field tend to attract individuals who have a very high self-confidence level but then expose them to an environment characterized by great uncertainty.5

The word bully has Dutch origins dating as far back as the 1530s, in which the term meant “lovers” or “friends.” It wasn’t until much later that the term bully morphed into a more callous meaning. By 1909, the mistreatment of nursing staff was already being documented and by the 1980s British journalist, Andrea Adams, popularized the term “workplace bullying.”2 The concept was finally introduced and accepted in the American workplace in the 1990s. Bullying abuse can be verbal, emotional, or even physical, but typically takes the form of emotional-verbal abuse.6 Common examples of bullying include threatening or abusive language, demeaning comments, repeated criticism, humiliation, refusing to assist, intimidation,
malevolent emails, and throwing items. Translated into workplace actions, bullying can take the form of unreasonable work demands, blaming the victim for errors, insults, deliberately denying access to critical information, denying opportunities for training or promotion, stealing credit for work successes or discounting accomplishments. Although physicians are often considered to be the primary culprit of bullying, the fact is that healthcare bullies can be any one of the many professionals who work in the organization including physicians, nurses, radiology technologists, pharmacists, ancillary staff personnel, administrators, or other non-physician staff members. The Society and College of Radiographers (SCoR), a trade union in the United Kingdom, conducted a survey of its members in 2013 in which 1,463 members responded. Forty percent of the respondents indicated that they had been subjected to bullying or harassment in the past two years and 21% identified bullying as a serious issue.

Because this behavior is often a misuse of power, studies indicate that primary culprits are typically department managers, supervisors, or organization executives. A survey commissioned by the WBI with Zogby International in 2007 found that in 72% of the cases, the perpetrators are supervisors (the survey included online interviews of 7,740 adults between 8/10/07 through 8/13/07. The margin of error was +/- 1.1 percentage points). Of those perpetrators, executive members supported the behavior 43% of the time. Leaders do nothing 43.6% of the time when bullying occurs, offenders are punished in only 6.2% of the cases, and in 18.4% of the cases, the victim felt that employer intervention actually made the situation worse. Employees reported that bullying stopped 40% of the time because the victim quit, 24% of the time because the victim was terminated, and 13% of the time because the victim transferred.

Characteristically, 62% of bullies are male. They crave power and control. They are competitive and appear driven, but are impatient and easily frustrated when something does not go according to plan. Fifty-eight percent of the time, the victims are females who are highly competent and well accomplished. Victims are typically chosen because they pose some sort of threat to the bully, such as being well liked by peers or are considered a resource to the department or organization. Victims refuse to be subservient and often demonstrate ethical and honest work behaviors. Victims are non-confrontational and could potentially be a whistle blower exposing unethical or fraudulent actions. In situations where females are the bullies, 80% of the time their victims are other females.

Bullying can also occur among work peers of the same status. This type of bullying is referred to as horizontal hostility. Behaviors consistent with horizontal hostility (among others) can range from infighting, sabotage, demeaning remarks, and passive-aggressive behavior. The phrase “eating their young” regarding the behavior of more senior nurses with newly hired nurses has been used for decades and is now being recognized as a form of bullying. In a study conducted in the United Kingdom, it was determined that 86% of nurses face bullying during a 12 month period and at some point in their careers 97% of all nurses will be exposed to verbal abuse.

Effects of Bullying

Regardless of the bully’s identity (and position), or the reasons behind bullying, there are severe consequences resulting from the behavior. It is estimated that workplace bullying costs an organization roughly 10% of their profits. Approximately 40% of victims never report being bullied and for those that do report, 62% of them are ignored. For the victim, this can lead to increased stress and burnout, clinical depression, high blood pressure, cardiovascular disease, impaired immune systems, increased staff turnover, increased absenteeism, decreased productivity, and symptoms consistent with post-traumatic stress disorder.

Studies suggest that workplace bullying costs organizations an estimated $200 billion annually resulting from a 40% decline in productivity, increased sick days, increased medical claims by the victims, potential legal costs, and staff turnover.

Stanford University professor, Bob Sutton, suggests that up to 82% of victims resign, transfer, or are terminated. Replacing employees costs two to three times their annual salaries. This is a concern especially with the potential crisis in the US with the looming shortage of healthcare providers. A 2013 survey indicated that the current average age of a registered nurse was 50 years and that by the year 2020 over half of those nurses will reach traditional retirement age. In 2007, a study indicated that one quarter of physicians were age 60 or older. Of those bedside physicians, approximately 209,000 were primary care. It is estimated that an additional 52,000 primary care physicians will be needed by 2025; and by 2030 the US will need an extra 3.5 million healthcare providers to maintain the existing provider to patient ratio.

For the patient, bullying in the healthcare workplace compromises job performance of the provider and contributes to increased adverse events and near misses, increased medical and medication errors, decreased patient satisfaction, decreased safety and quality care, and a decrease in positive patient outcomes. This negative impact on patients is often blamed on a decrease or lack of communication and collaboration between patient providers. The phenomenon has become so concerning, that regulatory agencies such
Bullying is four times more prevalent than harassment and there are some key differences that distinguish the two.

Legal Remedies for Victims

There is slow movement as some healthcare leaders begin to recognize the severity of bullying and are taking action. There are no specific laws related to bullying; however, when severe enough, behavior with bullying implications has been the subject of litigation. A California cardiovascular surgeon, Dr. John Young, had a long reputation of disruptive and intimidating behavior. Young’s behavior escalated and became so erratic, violent, and threatening, employees at Tri-City Medical Center felt frightened. In *Tri-City Healthcare Dist. v. Young*, the plaintiff petitioned for protective orders against Dr. Young on behalf of four of its employees. Staff stated that Dr. Young’s communication was derogatory, intimidating, and bully-like. The court issued orders prohibiting contact with the employees and his behaviors ultimately led to termination of his medical staff privileges. Under current federal law, victims of what could be deemed bullying have sought redress utilizing three main theories: harassment, hostile work environment, and intentional/negligent infliction of emotional distress. At best, success is mixed demonstrating the need for a clearer, dedicated legal remedy for victims.

Harassment

Federal laws that offer employee protection related to inappropriate behavior specifically address harassment. The legal definition of harassment is the act of systematic and/or continued unwanted and annoying actions of one party or a group, including threats and demands. Harassment and bullying are not actually the same thing; however, approximately 20% of bullying is considered harassment. Harassment becomes unlawful when it is based on discrimination or when it is so egregious that it creates a hostile work environment. Federal laws that address harassment include Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), and the American with Disabilities Act of 1990 (ADA). Congress enacted Title VII of the Civil Rights Act of 1964, (42 U.S.C. § 2000e et seq.) to ensure equality of employment opportunities and to prohibit discrimination. It makes it unlawful for any employer with 15 or more employees to discriminate in regards to recruiting, hiring, promotion, transfer, work environment, job training, discipline, discharge, wages, benefits, or other terms, conditions, or privileges of employment. Title VII created the Equal Employment Opportunity Commission (EEOC) to implement the law but enforcement is vested with the federal court system. The EEOC defines discrimination as unwelcome conduct (toward members of protected groups) that is based on race, color, religion, sex, national origin, age (40 or older), disability, pregnancy, or genetic information. The definition also includes conduct that violates people’s dignity or creates an intimidating, hostile, or offensive environment. An employer is liable for harassment by supervisors, employees, and non-employees if they fail to take corrective actions.

Bullying is four times more prevalent than harassment and there are some key differences that distinguish the two. Unlike harassment, bullying is not specifically defined in the law, nor does federal employment or state employment laws specifically protect the victims of bullying. Since 2003, 26 states have introduced anti-bullying healthy workplace bills (HWB) but there is still no state that has enacted laws to protect the victim. The proposed legislation would provide a mechanism for victims to file legal claims for damages, create legal incentives for employers to prevent and respond to bullying behaviors, and protect employees that have made a complaint. Current recourse for bullying victims is simply to leave the

Other organizations that have taken a stand on addressing this negative and disruptive behavior include the American Medical Association (AMA), the Center for American Nurses (the CENTER), and the American Association of Critical Care Nurses (AACN). The AMA recognizes any behavior that would potentially affect patient care as disruptive behavior and both the CENTER and the AACN note that collaboration among providers is paramount in sustaining a healthy work environment.
organization. Additionally, bullies target anyone, not just those who are in a protected group (harassment based on discrimination). When bullying does not qualify as “harassment” or “discrimination,” proscribed by current employment law, there is no law that prohibits workplace bullying.

Hostile Work Environment
A hostile work environment is created by conduct that is so severe and pervasive that it interferes with one’s ability to perform the job. What circumstances can rise to the level of creating a hostile work environment under the law can be difficult to define. Courts must analyze facts related to each case to determine the legal standards that apply which may not be relevant in every situation. To be unlawful, it must be considered hostile, offensive, or intimidating to the reasonable person. Courts have dismissed claims made by plaintiffs stating that to prevail in a retaliatory hostile work environment assertion, “a plaintiff must show that the employer subjected the employee to ‘discriminatory intimidation, ridicule, and insult’ that is ‘sufficiently severe or pervasive to alter the conditions of the victim’s employment and create an abusive working environment.” Such a situation occurred in a large hospital system in Dallas, Texas in which employees made several complaints of a hostile work environment against a cardiologist. One employee accused the physician of physically intimidating her during a procedure while others stated that he used racial slurs, demeaning comments, threatened job loss, and demonstrated behavior consistent with sexual harassment. According to the physician, the staff was poorly trained and not accustomed to working such long, hard hours resulting in staff frustration, not a hostile work environment.

Intentional Infliction of Emotional Distress
Intentional infliction of emotional distress (IIED), also referred to as the tort of outrage, is a tort claim for intentional conduct resulting in emotional distress. Many states have set a high standard for claims of IIED and the requirements are difficult to satisfy. The four elements necessary to prevail are:
1. The defendant intended to inflict emotional distress or should know that emotional distress was the likely result of the conduct;
2. The conduct of the defendant was extreme and outrageous;
3. The actions of the defendant were the cause of the plaintiff’s distress; and
4. The resulting emotional distress to the plaintiff was severe.

The element most difficult to prove is the presence of extreme or outrageous behavior because the term “outrageous” lacks a specific definition making related lawsuits largely unsuccessful. Two cases specifically demonstrate the difficulty in satisfying the elements of IIED. In Holloman v. Keadle, a female worker for a male physician in his office for two years before voluntarily resigning her position. In her 1996 lawsuit, Holloman stated that the physician, Dr. Keadle, repeatedly cursed at her, belittled her, called her derogatory names (in front of other staff and patients), and made vague threats (indicating he had a gun and connections to the mob). The situation became so stressful the plaintiff alleged that she suffered from stomach problems, sleep loss, anxiety attacks, and a loss to her self-esteem. Similarly, in Snyder v. Turk, a nurse filed suit against a surgeon after he demonstrated bullying behavior. During a surgical case, the surgeon yelled at the nurse multiple times and stated that she was incompetent. The surgeon became increasingly frustrated when she handed him the incorrect instrument at which point, he pulled her down to the surgical opening and stated, “Can’t you see where I’m working? I’m working in a hole.” In both cases, the courts ruled in favor of the defendants agreeing that the plaintiffs did not establish the necessary elements of the case.

Conclusion
The reasons behind bullying and the continued tolerance of the disruptive behavior are multi-faceted. First, characteristically, bullies tend to be high achievers. They get results for the organization. This keeps the organization from acknowledging (or possibly even recognizing) the problem. Second, as statistics indicate, many bullies are in leadership roles. The staff members who are in place to be the employee’s advocate (managers and administrators) are in fact at the root of the problem. Finally, many bullies are key players in the organization. Physicians are the foundation of referral patterns for a hospital. Without them, a hospital suffers financially. Nursing and other crucial ancillary staff are in demand. As the population continues to age, there will be an increase in the patient load (and demand for medical services) with less people to backfill open positions. Hospitals are hesitant to terminate any employee, which would result in open staff positions that are difficult to fill. Replacing staff with specific skills can cost an organization up to 21% of that employee’s annual salary and senior leaders have a disproportionately high turnover cost up to 213%. The cost for physician recruitment is just as daunting for an organization, requiring up to 350 hours and an average of $40,000. This makes recruitment cost a significant factor in retaining staff members who demonstrate poor behavior.

Victims of bullying have three possible legal solutions: harassment, hostile work environment, and intentional/negligent infliction of emotional distress. However, the elements necessary to fulfill the legal definitions are subjective and difficult at best to satisfy. This has created a situation that is tolerant of unacceptable behavior. Regardless of the reasons, the lack of specific workplace bullying legislation, continued tolerance of such conduct, and work safeguards that protect the bully but penalize the victim creates an environment that proliferates the behavior in healthcare organizations.
Workplace Bullying in Healthcare: Part 1

References


BeckyLamberth@mh.com is the current director of radiology for Methodist Dallas Medical Center in Dallas, Texas and an adjunct professor for Midwestern State University. She is an active member of AHRA, a published author, and a noted speaker. Becky can be contacted at RebeccaLamberth@mh.com
Continuing Education

Workplace Bullying in Healthcare: Part 1

Home-Study Test

1.0 Category A credit • Expiration date 2-28-2017

Carefully read the following multiple choice questions and take the post-test at AHRA’s Online Institute (www.ahraonline.org/onlineinstitute)

QUESTIONS

Instructions: Choose the answer that is most correct.

1. According to the Workplace Bullying Institute, what is the approximate percentage of American workers experiencing some form of workplace bullying firsthand?
   a. 17%
   b. 35%
   c. 50%
   d. 62%

2. What percentage of workers have witnessed acts of bullying?
   a. 15%
   b. 30%
   c. 42%
   d. 53%

3. Workplace bullying is most prevalent in:
   a. Blue collar jobs
   b. Academia setting
   c. Medical profession
   d. All areas experience equal amounts

4. The concept “Workplace Bullying” was finally introduced and accepted in the American workplace in the:
   a. 1990s
   b. 1980s
   c. 1970s
   d. 1960s

5. Bullying abuse can be verbal, emotional, or physical, but typically takes the form of:
   a. Verbal abuse
   b. Physical abuse
   c. Emotional-physical abuse
   d. Emotional-verbal abuse

6. A survey by the Workplace Bullying Institute in 2007 found that perpetrators are supervisors in:
   a. 43% of the cases
   b. 13% of the cases
   c. 72% of the cases
   d. 62% of the cases
7. In situations where females are the bullies, 80% of the time their victims are other females.
   a. True
   b. False

8. Bullying which occurs among work peers of the same status is referred to as:
   a. Parallel aggression
   b. Horizontal hostility
   c. Straight-line resentment
   d. Leveled opposition

9. Studies suggest that, annually, workplace bullying costs organizations an estimated:
   a. $100 million
   b. $200 million
   c. $100 billion
   d. $200 billion

10. How many additional leadership standards were implemented by The Joint Commission in January 2009 to address inappropriate behavior?
    a. 2
    b. 4
    c. 8
    d. 10

11. Suggestion by The Joint Commission for organizations to address disruptive behavior include:
    a. Adopt a zero tolerance position
    b. Determine how and when to begin disciplinary actions
    c. Document attempts to address the behavior
    d. All of the above

12. Which of the following is one of three main theories that has been utilized by victims seeking redress of what could be deemed bullying under current federal law?
    a. Stalking
    b. Pestering
    c. Harassment
    d. Aggravation

13. Approximately what percent of bullying is considered harassment?
    a. 10%
    b. 20%
    c. 40%
    d. 50%

14. Compared with harassment, bullying is:
    a. Four times more prevalent
    b. Ten times more prevalent
    c. Twelve times more prevalent
    d. Twenty times more prevalent

15. Since 2003, the number of states having introduced anti-bullying Healthy Workplace Bills is:
    a. 6
    b. 13
    c. 26
    d. 44

16. To be unlawful, a work environment must be considered hostile, offensive, or intimidating to the reasonable person.
    a. True
    b. False

17. The number of elements necessary to satisfy a claim of Intentional Infliction of Emotional Distress set by many states is:
    a. 2
    b. 4
    c. 6
    d. 8

18. The element of Infliction of Emotional Distress most difficult to prove is:
    a. The defendant intended to inflict emotional distress
    b. The resulting emotional distress to the plaintiff was severe
    c. The presence of extreme or outrageous behavior
    d. The defendant’s actions were the cause of the plaintiff’s distress

19. The reasons behind bullying and the continued tolerance of the disruptive behavior are:
    a. Bullies tend to be high achievers
    b. Bullies are in leadership roles
    c. Many bullies are key players in the organization
    d. All of the above

20. Victims of bullying have how many possible legal solutions?
    a. 3
    b. 4
    c. 6
    d. 9