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 medicine. Serious ethical violations include:

- Sexual abuse of patients by physicians
- Criminal prescribing of opioids
- 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. In fact, the rate of severe disciplinary actions against physicians is “similar to the rate of new diagnoses of breast cancer each year and much more common than new diagnoses of HIV — both of which are widely recognized as urgent challenges for medicine and public health.”

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.
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.

Cases

Cases of egregious ethical violations frequently attract media attention and harm the reputation of the medical profession. Here are a few examples:

JOHN MANZELLA

Dr. Manzella was an infectious disease physician, who obtained thousands of oxycodone pills by writing fraudulent prescriptions and working with a con man who sold them on the black market. Manzella worked in a private practice with his brothers who did not know about the scam.4

DAVID DO

General practitioner Dr. Do fondled patients’ breasts and vaginas. During these encounters, Dr. Do did not wear gloves. The touching had nothing to do with performing a medical examination. Some instances occurred in front of a chaperone or family member.5

FARID FATA

Dr. Fata was an oncologist and owner of his private cancer practice. He prescribed chemotherapy to healthy patients and gave partial doses to those who were sick while charging them for full treatments. He submitted millions in fraudulent charges to Medicare and private health insurance companies. Many patients died.6

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

When individuals with integrity join an organization, it contributes to a culture where unethical behavior is both rare and not tolerated.7

- Throughout the recruitment process, clearly articulate institutional commitment to the positive core values of medicine8
- 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 violations9*
- 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.
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, teach, and model 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 surveys,¹⁰ and increased presence of staff and trainees¹¹
- 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
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, residents, and fellows, 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 police\(^\text{12}\)
  - Visit [www.BeforeYourVisit.org](http://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 report. 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.

**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**

Obligations to report may also go beyond the law.
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
As seen in the case of Larry Nassar, the team physician for USA Gymnastics who sexually assaulted more than 265 athletes including children as young as six,\textsuperscript{13} 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—not just your institution.* 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

*Allowing physicians to resign and quietly relocate following egregious violations may enable the violations to continue.
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.


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