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POLICY FORUM

Mayo Clinic's 5-Step Policy for Responding to Bias Incidents

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Abstract

Patient bias towards clinicians and employees in health care is common, but policy to address bias and to support staff is relatively limited. Creating a framework to address bias incidents is critical for cultivating environments that are safe for employees and patients. Mayo Clinic has created both policy to support staff and a reporting mechanism for accountability. Education, resources, and training are available and being disseminated to teach employees ways to respond to bias incidents.

Health Care Organizations and Patient Bias

Patient bias towards clinicians and employees in health care is common. In a 2017 survey that included 822 physicians, 60% of physician respondents reported that, in the past 5 years, they had experienced bias from patients on the basis of a personal characteristic—most commonly younger age, ethnicity, gender, or race but also religion, weight, political views, accent, or sexual orientation.[1] Almost half of physician respondents had a patient request an alternate clinician on the basis of personal characteristics, and that request was granted 83% of the time.[1] In addition to a rise in these patient preference requests, health care professionals are increasingly subject to patients' overt discriminatory or harassing behavior.[2]

How health care organizations balance providing appropriate and necessary care to patients with maintaining a supportive, respectful work environment for staff can be a litmus test of organizational culture and leadership. Silence on patient bias or a "patients-first" approach can have detrimental effects on morale and leave organizations legally vulnerable. Clear policies and procedures are necessary to guide staff when discriminatory behavior occurs in the health care setting, and staff training is needed to provide awareness of resources and consequences. Typically, dozens of policies and procedures protect patients' rights and safety, but there is a paucity of literature on formal policies to address patient and visitor conduct, and even when organizations have protocols, there is often limited awareness or enforcement of them.[1] Here we highlight Mayo Clinic's policy and procedure related to patient and visitor conduct.

Policy for Reporting and Responding

History. Specific language codified into a policy to address conduct of patients that is racist, sexist, or discriminatory is a relatively new phenomenon. Mayo Clinic's Patient and Visitor Conduct Policy is not available to the public, but it went into effect internally in October 2017 after months of careful consideration of patient and staff safety and well-being; patient, employee, and organizational rights and responsibilities; and legal and ethical potential consequences. A major impetus to create this policy was a growing number of anecdotal reports of requests by patients for clinicians with or without specific personal attributes. While there was variation across practice areas, in some areas a relatively high frequency of requests was granted. Additionally, an organization-wide climate assessment found that discriminatory, biased, and harassing behavior by patients and visitors as well as requests for alternate staff disproportionately affected employees, nursing staff, and learners of color. Staff and learners reported feeling demoralized, marginalized, unsupported by their supervisory staff, and without recourse due to the lack of policy guidance or a formal reporting mechanism to address bias incidents.

The working group charged with developing the Mayo Clinic Patient and Visitor Conduct Policy, led by the second author, recognized that the problem might be more difficult to address at Mayo Clinic, where "the needs of the patient come first" is a primary value.[3] Historically, there had been a strong tendency to almost automatically accede to patients' requests with little attention paid to the needs of the staff and without assessment of whether requests were just or caused distress to professionals on staff. Supervisors and attending physicians did not know how to address inappropriate comments and behaviors from patients, including microaggressions (verbal or nonverbal actions regarded as indirect, subtle, or unintentional discrimination) and requests for or comments about staff or learners based on nonclinical factors. This ignorance often led to acquiescence, silence, and failure to address the distress of an affected staff member or learner, thus leaving these individuals feeling wounded, ashamed, or otherwise distressed. Developing policy to help respond to bias incidents is critical because employees and learners are Mayo Clinic's most important resource and because Mayo hopes to mitigate risk of discrimination charges by patients who are not granted their requests and by employees and learners who feel unsupported or unsafe at work as a result of granted requests. The goal of the working group was to develop policy that would equip all staff with resources for responding to requests based upon nonmedical criteria, ensure appropriate resources are available to report and resolve bias incidents, and engage Mayo Clinic leadership to ensure employees are held accountable for responding to these bias incidents.

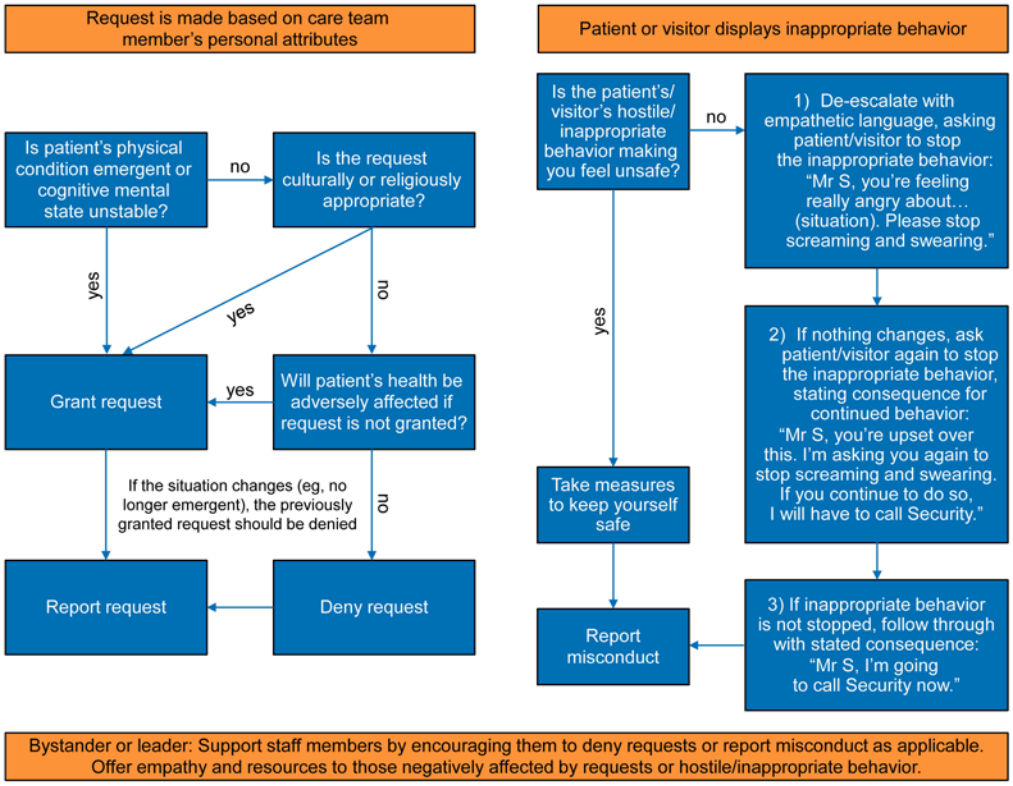
Guiding principles. A guiding principle of policy development was to balance Mayo Clinic's obligations to provide excellent and culturally appropriate care to patients and to provide a supportive and safe workplace for staff. The policy work group members were drawn

from leadership, clinicians, and students and from personnel in human relations, staff development, the Office of Diversity and Inclusion, general counsel, ethics, the Office of Patient Experience, the Integrity and Compliance Program, and the Department of Public Affairs. The scope of the final Mayo Clinic policy and procedure covers all employees—both those directly involved in patient care and support staff. Patients as well as accompanying persons were included in the policy and procedure because, in our experience, inappropriate and disruptive behavior or requests can come from family members or visitors.

The policy addresses two overarching situations: (1) requests for specific characteristics of care team members unrelated to patient care, such as race, religion, ethnicity, gender identity, or sexual orientation and (2) incidents in which patients or visitors behave in a discriminatory, harassing, or demeaning manner towards staff. The essence of the policy states that patients may not select their health care professionals based on personal characteristics with very limited exceptions that relate to potential harms to a patient if a request is not granted. In addition, if patients' or visitors' behavior to staff is derogatory or abusive, it will not be tolerated and, if persistent, could result in termination of care depending on its severity and the setting.

Exceptions narrowly defined. Deliberations about the types and application of exceptions to the new policy were nuanced and challenging. "Zero-tolerance"—such as denying all patient requests for specific preferences regarding their clinical care team—was not an option. Health care professionals have a fiduciary responsibility to address emergencies and unstable patients[4]; therefore, acuity must be considered before deciding on a response to discriminatory patient conduct.[5] Some patients may have had prior trauma or have cultural needs that inform their requests for a different clinician, such as patients with a history of sexual assault or military veterans with posttraumatic stress disorder. Mayo Clinic's policy allows a care team to make exceptions to policy if a patient's health would be compromised by not accommodating a request. This determination is made by members of the health care team most familiar with that individual patient's clinical, cultural, religious, and social background. The working group sought to consistently apply policy; clearly communicate expectations to patients, learners, and staff; and consider exceptions in a manner that resulted in favorable outcomes for all parties (see Figure 1).

Figure 1. Algorithm for Response to Inappropriate Patient or Visitor Behavior or Request for Specific Clinician



During policy development, what required the most discussion was women patients' requests for women clinicians or other women on staff in the absence of antecedent trauma or a religious reason—that is, personal preference requests. Mayo Clinic policy maintains consistency and prohibits choosing clinician gender. This deliberation was challenging, especially since many people making this request do not believe they are behaving in a discriminatory or sexist manner. While some felt that women requesting women clinicians should be an automatic exception, the decision not to include this exception in the policy was based on the view that (1) a request of this nature could adversely affect patient care if a woman clinician was not available and qualified to care for the patient, (2) it would represent a double standard (Would a male also be allowed to request a male staff member?), and (3) Mayo Clinic has an obligation to teach men and women learners to learn to care for both men and women. This policy decision helps to ensure that Mayo Clinic's learners and trainees as well as staff have equal access to patients, cases, and procedures and maintains consistent application of the policy. However, a common response to these types of requests in outpatient settings is to acknowledge a patient's request, affirm the qualifications of all staff, and make a scheduling determination based on clinical urgency, patient scheduling needs, and, secondarily, clinician gender when applicable.

Avoiding legal risk. Although not a primary reason for establishing a formal policy, protecting the organization from legal liability is also important. Patients have a right to refuse care, but this right does not outweigh employees' right to be free of discrimination. These competing rights are illustrated in the 2010 case, *Chaney v Plainfield Healthcare Center*, in which the health care organization complied with a request by a resident of a long-term care facility not to have any black nursing assistants enter the room of a white patient. The US 7th Circuit Court of Appeals ruled in favor of a black employee who sued the nursing home for violations of Title VII of the 1964 Civil Rights Act, citing that acceptance of the patient's preference created a hostile work environment.[6] Several other organizations have been sued (and found to be in violation of civil rights laws) over employer policies allowing patient preference to dictate which rooms minority employees could enter.[7] The upshot is this: routinely acceding to patient preferences, especially about caregivers' race or sex, exacerbates health care organizations' risk for being sued.

Communicating the policy and expectations to staff. The new policy, its rationale, and the roles that leaders and all staff must play to support its implementation—which for many was a foundational change in work process—was disseminated via a formal communication plan. The policy is included in new staff and student orientations and department chair education and has been cascaded to affected staff, along with accompanying resources appropriate to staff or learner roles.

Staff resources, training, and skill building. While policy and procedure are important, without change in organizational culture, education on the rights and resources available to employees, and a reporting mechanism for violations, there is unlikely to be a sustained change in behavior. Organizational leadership sets priorities and tone; therefore, executive endorsement of the policy, which reinforces its importance, has been critical in inspiring employees to take bigotry and misconduct seriously and in cultivating a supportive environment. Teaching employees and learners how to distinguish a patient's needs from a patient's preferences requires tactical training. Such training is ongoing and available to all staff. It includes specific content in new employee and learner orientation sessions and online learning modules and case scenarios with facilitated discussion guides. Also included in this content is the SAFER model with supportive resources (see Table).

Table. SAFER Model for Recommended Responses to Patient or Visitor Misconduct

Five Steps in SAFER Model
Step in when you observe behavior that does not align with Mayo Clinic values.
Address (the inappropriate) behavior with the patient or visitor.
Focus on Mayo Clinic values (such as respect and healing).
Explain Mayo's expectations and set boundaries with patients and visitors.
Report the incident to your supervisor and document the event using the Patient Misconduct form.

These resources are available on a dedicated website, which also includes responses to "frequently asked questions," an annotated bibliography, other training materials, videos, and scripts for varied situations and roles. The video and scripted scenarios incorporate empathic language and tips for responding to inappropriate requests; for de-escalation; for handling the angry, racist, or sexist patient; and on how to communicate denials of requests (see Figure 2).

Figure 2. Examples of Scripted Responses to Patient Preference Requests

- "Help me understand your request."
- "We are here to help you as a team. We do not change doctors/nurses/etc because of their race/ethnicity/religion/etc."
- "All Mayo Clinic team members are very qualified. Our top priority is that you receive the best care, and I know that our team members can provide that."
- "All Mayo Clinic staff are credentialed and licensed to practice in the State of _____. One of our core principles is that we treat everyone in our diverse community with respect and dignity. We are confident in _____'s character and clinical skills."
- "I would trust this physician/nurse/therapist/etc to care for my own child/family member."
- "We want to provide you with excellent care and believe that _____ is the right person to do so."
- "Mayo Clinic hires the best and brightest people to care for our patients regardless of their race, ethnicity, gender, sexual orientation, etc."

Communicating expectations to patients and visitors. Patients must be proactively informed and educated about Mayo Clinic's values, commitment to diversity, and unwillingness to tolerate patient behavior that is biased or harms staff. Ideally, this information is made

available prior to requesting an appointment. Our online "patient responsibility" policy preamble previously read, "we respect each patient's cultural, psychosocial, spiritual and personal values, beliefs and preferences." This preamble has since been revised to state, "We won't grant requests for care team members based on race, religion, ethnicity, gender, sexual orientation, gender identity, language, disability status, age or any other personal attribute. If you'd like more information on our policies, contact the Office of Patient Experience." This information is available on patient appointment portals, Mayo Clinic's frequently asked questions webpage[8] and at each clinical site. When patients question or challenge the policy, Mayo Clinic staff focus on conveying the core values of respect and integrity and that all team members assigned to their care are highly qualified to address their specific medical needs. When requests are unreasonable or misbehavior is persistent or egregious, steps may be taken to terminate the health care relationship utilizing a separate policy and procedure that addresses persistent abusive behavior or threats to employee safety.

Reporting events, monitoring, and review. One challenge in implementing this policy was the lack of a consistent or central reporting structure. Prior to 2017, bias incidents were reported at the discretion of the individual, work group, or department. The working group developed a central online reporting mechanism with the Integrity and Compliance Office to capture both inappropriate clinician requests—irrespective of whether they were granted—and misconduct events. Reporting is simple, can be anonymous, and includes the date of the event, the patient involved, a description of event, and whether the request was granted and why. Reporting can be done by anyone who witnessed, experienced, or is aware of a bias incident. Each reported event is reviewed within 2 business days, and additional details are obtained as needed or to clarify that the incident has been resolved and that affected staff members' needs have been addressed. The working group retrospectively reviews all reports in order to determine the frequency and severity of bias incidents, and it assesses adherence to policy by ascertaining which requests are granted and if the nature of the incidents reported is appropriate. The presence of this transparent reporting mechanism allows detection of trends and "hot spot areas," helps ensure that the policy is being interpreted properly, and informs needs for policy or procedural revisions and for opportunities to provide additional support or education. Creating this culture of accountability has allowed health care professionals—especially staff who are more vulnerable to discrimination—to better support each other.

Mayo Clinic Policy as One Model

A patient's preferences can be mistaken for a patient's needs. In a fiduciary profession, grounded in altruism, making changes that prevent granting patients their preferences can be challenging. Organizations and individuals must communicate the rationale for new policies that patients may find difficult. At Mayo Clinic, the Patient and Visitor Conduct Policy allows us to address both microaggressions and egregious behavior in a

manner that supports the rights and responsibilities of patients, staff, and the organization.

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