Goals of this session:

1) To review the scope of and expectations for performance management of faculty

2) To discuss parameters for the documentation of performance evaluations (and reference letters)

3) To discuss progressive discipline options when performance fails to improve
   i. Basic Principles – fairness, progressive discipline, documentation
   ii. Med Center Bylaws
   iii. Faculty/Physician Professionalism
   iv. Attorney-Client Privilege Issues
   v. E-mails

4) To discuss handling of contract renewals/non-renewals and promotions in setting of performance issues or discipline problems

PART A

You are the Department Chair of a major clinical department at one of the finest medical schools in the U.S. You receive an e-mail from one of your Division Chiefs requesting to meet with you. The content of the e-mail is “I need to meet with you to discuss how we can get rid of Dr. Jane Doe”.

- What should your response be to the Division Chief?
  o Discussion with Division Chief to determine facts.
  o Discuss appropriate use of e-mail. Should you ask for more specifics via e-mail?
- What documents are “discoverable”?
  o You will want to document your discussion with Chief
  o Make point that you want to control content of written documentation (another point against asking for more information via e-mail)
  o Attorney-client privilege
PART B

In the meeting with your Division Chief you learn that Dr. Jane Doe has had a pattern of problematic behavior. The Division Chief has received numerous complaints from staff, residents, and other faculty that Dr. Doe is very difficult to work with. The specifics are that Dr. Doe “screams” at staff and residents and that she often makes comments that are interpreted by staff and residents as belittling or demeaning. Her peers don’t like to work with her either. She is not regarded as a “team player”—examples are 1) she won’t trade call or clinical responsibilities when another faculty member in the department has a personal issue come up 2) when rounding on the hospital service she is openly critical of the care that other faculty members in the department have provided 3) she does not volunteer for teaching and administrative duties such as resident lectures, department committee service and is viewed as “selfish” and protective of her research time/activities.

Are these performance issues?

Outline scope of performance issues
  Include behavioral issues, quantity and quality of work, competencies, relationship with superior, violation of policies

What risks does this behavior raise for the organization? For your department?

Concerns for the organization include potential harassment, discrimination or hostile work environment
Concerns for your department are morale and retention issues

What additional information do you need?

Faculty Specific Context (seniority, how long at the university, prior issues)
Employment context (contract, tenure)
What are the facts? Ask the Division Chief who has made these comments – get specifics – which residents, staff members, faculty have made these comments?
Environmental context (comparison with others – disparate treatment issues, institutional specific policies, etc)
Prior documentation regarding performance (has this been addressed, if so, how); include discussion about performance evaluations – importance of honesty; rationale – fairness, institutional protection
PART C

You learn that Dr. Jane Doe has been at this medical school for 4 years, she is a 45 year old Associate Professor in the Clinical and Educational Scholarship track and is now near the end of the first year of a three year contract. She has received her annual performance evaluations and each time has been given the overall evaluation of “above expected performance” based on her clinical productivity and scholarly productivity. There is no documentation of any behavioral issues in her annual performance evaluations. Though the Division Chief has been aware of complaints about her for a few years now, he has not directly witnessed any of the behaviors. The Division Chief thinks this is because Dr. Jane is ambitious and knows better than to behave poorly in front of him. The Division Chief acknowledges that there is one other faculty member in his Division who occasionally “blows up”, but he is the highest revenue generator in the department and most of the time he is fine.

The Division Chief says that he spoke to Dr. Jane about her behavior once in the hallway a few months ago after a complaint he had received from an office staff member who was “screamed at.” He did not document the conversation but recalls that he mentioned the complaint to Dr. Jane and asked her if she could “tone it down a bit” in the office. He didn’t say any more because Dr. Jane is difficult to deal with and he didn’t want to get into a confrontation with her. The Division Chief insists that Dr. Jane has to go, and wants to discuss a strategy to get rid of her.

What would your approach be at this point?

Appropriate investigation -Would the information obtained above constitute an appropriate investigation? Why not? What are the elements of an appropriate investigation? Who can conduct it? (When in doubt, call xxx)

What issues are potentially concerning?

Probable disciplinary issue with a faculty member that could culminate in dismissal or non-renewal. Faculty member is in protected class (gender, age). Possible disparate treatment issue in department. Though problem behavior is not new, faculty member has not been put on notice (discuss hallway comment) and in fact has been given above expected performance evaluations to date.
PART D

You review the information the Division Chief has supplied, decide to speak directly with the Office Manager and Residency Director and ask the Division Chief to speak again with the faculty members who have raised complaints (the chief could not recall the details of the faculty complaints) and document the specifics. The additional investigation confirmed the initial concerns raised by the Division Chief and reveals that Dr. Jane's behavior has a demoralizing effect on your staff, residents and the other faculty and that at least a few have considered leaving your department as a result of her behavior.

What do you do now?

*Performance Management expectations (evaluative feedback, opportunity for improvement, reassessment and feedback—documentation of above)*

*Time sensitivity of complaint, how urgent is issue (in some situations you may need to take immediate action)*

*What about other faculty member who occasionally “blows up”? (requires an investigation and appropriate action as well)*

PART E

You ask the Division Chief to meet with Dr. Jane and discuss the concerns, namely that we have been made aware of concerns about her behavior and upon investigation have found a pattern of behavior that is disrespectful and demeaning of others, is having a negative impact on the morale and possible retention of other members of the department, and is putting the department at risk for claims of harassment, discrimination and hostile work environment.

How should this meeting with the faculty member be documented?

*Importance of written documentation (note to file, follow-up letter to faculty member—when is it important?, reflection in APR)*

Can we issue immediate notice of non-renewal?
Three months later, Dr. Jane makes an appointment with the Division Chief to discuss her promotion. After reviewing her CV, you and the Division Chief agree that she meets criteria for promotion to Professor in the Clinical and Educational Scholarship track. You have not heard any recent complaints about her behavior but you judge it to be too short a time period to really determine if there has been a permanent change in her behavior.

What are your options?

*Risks/benefits of delaying the promotion pending further assessment of her behavior? How should performance management and disciplinary issues affect the promotions process? What are the contract implications of promotion? This would be a situation to involve OFA and UC*

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**PART F**

After giving this some thought, you decide to proceed with supporting the faculty member’s promotion, so you provide a positive reference in support of her promotion.

Evaluate the following three phrases for inclusion in your Chair transmittal letter for her promotion:

“Dr. Doe is one of the most valuable members of our department and an asset to the institution. This outstanding faculty member is absolutely deserving of this promotion in all respects.”

“Dr. Doe is a highly capable clinician who has developed a national reputation for her clinical area of expertise as evidenced by her invitations to speak at national meetings and universities. Her contributions to the literature are highly cited and have had a significant impact on the field. For these reasons, she is deserving of this promotion.”

“Dr. Doe is a talented clinician, educator and scholar, a true asset to our department. Her contributions on every level have been excellent and she is truly deserving of this promotion.”
Once her promotion is through, she resumes her prior behavior pattern. The Division Chief continues to meet with her, documenting continued problems and implementing progressive disciplinary measures which culminates in the decision to not renew her contract.

During the non-renewal period, you learn that she is seeking employment at other institutions and you receive a phone call from a prospective employer seeking a verbal and written letter of reference.

*Letters of reference for faculty released due to performance or disciplinary problems – negligent reference/defamation issues*

How would the above situation be different if Dr. Doe were a tenured faculty member?

*Standard for dismissal for cause*