



Prohibiting Discrimination and Discriminatory Aggression by Patients/Health Care Decision-Makers or Visitors against JHM Community Members Policy

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AGENDA

- Policy Overview
- Response Algorithm
- Examples of Scripted Responses
- Illustrative Case Studies
- Important Take-Home Points

Policy Overview

BACKGROUND


Johns Hopkins Medicine (JHM) Community Members are sometimes faced with acts of discrimination and discriminatory aggression from patients/health care decision-makers and visitors based upon legally protected characteristics. This behavior has a negative impact and results on JHM community members feeling traumatized, demoralized, marginalized, and unsupported.

BACKGROUND

- The original policy (effective 3/1/2020) initially focused on Prohibiting Discrimination when a patient/family requested a specific provider based upon a patient preference involving a legally protected characteristic.
- The revised policy (effective 5/1/2022) added content related to patients, healthcare decision-makers and visitors who express Discriminatory Aggression and how it should be managed.

PARTICIPATING ORGANIZATIONS

Version 4.0

 JOHNS HOPKINS MEDICINE	Johns Hopkins Medicine JHM Corporate and Administrative Policy Manual Administration	<i>Policy Number</i>	ADMIN027
		<i>Effective Date</i>	05/01/2022
	<i>Subject</i> Prohibiting Discrimination or Discriminatory Aggression by Patients/Health Care Decision-makers or Visitors Against JHM Community Members	<i>Page</i>	1 of 6
		<i>Supersedes Date</i>	03/01/2020

This document applies to the following Participating Organizations:

All Children's Health System, Inc.	HCGH OB/GYN Associates	Howard County General Hospital, Inc.	Johns Hopkins All Children's Hospital
Johns Hopkins Bayview Medical Center, Inc.	Johns Hopkins Community Physicians	Johns Hopkins Health System Corporation	Johns Hopkins Home Care Group
Johns Hopkins Imaging	Johns Hopkins Medical Management Corporation	Johns Hopkins Medicine International	Johns Hopkins Surgery Centers Series
Johns Hopkins University School of Medicine	Potomac Home Health Agency, Inc.	Potomac Home Support, Inc.	Sibley Memorial Hospital
Suburban Hospital, Inc.	The Johns Hopkins Hospital		

Keywords: accommodation, administrative discharge, bona fide accommodation (BFA), discrimination, involuntary discharge, patient, preference

Policy

<https://hpo.johnshopkins.edu/doc/fetch.cfm/K2SEm0W7>

I. PURPOSE

- This policy creates a mechanism for the Participating Organizations to provide patient care in a manner that respects a patient's right to be an active participant in their treatment and that adheres to high standards of patient care while also protecting all members of the JHM community from discrimination by patients/health care decision-makers and visitors.
- Discrimination could be in the form of objecting to or acting aggressively towards a JHM Community Member based on a legally protected characteristic.

II. SCOPE

This Policy applies to all JHM Community Members.

III. POLICY

- Participating Organizations are equal opportunity employers, and, as such, are committed to maintaining an environment free from discrimination.
- Patients/Health Care Decision-makers or visitors who discriminate against or are aggressive in a way that discriminates against JHM Community Members based on legally protected characteristics will not be tolerated and advised to seek care elsewhere, subject to Participating Organizations' responsibility to comply with the Emergency Medical Treatment & Labor Act (EMTALA).
- If such an event occurs, a determination will be made regarding implementing a visitor restriction or pursuing an administrative patient discharge.

III. POLICY (EXCEPTIONS)

Exceptions to this Policy exist, and accommodations may be provided, in the following situations:

- When the patient requests to solely be treated by specific-gender providers and staff members during specific-gender physical examinations and treatment due to strong and sincerely held religious convictions about modesty; or
- When the patient requests to be treated by a specific-gender provider during physical examinations and treatment due to personally experienced trauma related to sexual assault or relationship violence.
- When the patient is experiencing an emergency medical condition (and is unstable).

These exceptions do not apply to a patient request to remove or exclude a staff member or provider from providing care based upon a patient's objection to the staff member's or provider's gender identity or gender expression.

IV. DEFINITIONS

<p>Discriminatory Aggression</p>	<p>Forceful, goal-directed behavior that may be verbal or physical based on a legally protected characteristic.</p> <ul style="list-style-type: none"> • <u>Verbal or Non-verbal Abuse:</u> Any verbal or non-verbal expression made with the intent of creating fear or intimidation in another individual, or group of individuals. Verbal remarks or comments expressed in a loud, harsh or threatening tone of voice or in a joking manner with the purpose or effect of unreasonably interfering with an individual's performance or experience within the workplace environment. • <u>Physical abuse:</u> Any intentional movement of the body designed to elicit fear or intimidation, which may include touching, gestures, pushing, striking, stalking or any unwanted intrusion.
<p>JHM Community Member</p>	<p>Any person who is working, training or volunteering within a JHM Participating Organization.</p>

IV. DEFINITIONS

Legally Protected Characteristic	A characteristic that qualifies a person for special protection under federal, state or local laws including, but not limited to, perceived or actual race, ethnicity, color, national origin, language spoken, accent, religion, gender, gender identity, gender expression, sexual orientation, age or ability, marital, veteran, military, immigration, or pregnancy status.
Patient Preference based on a legally protected characteristic <i>'Patient Preference'</i>	A formal written or verbal concern articulated by a patient or a Health Care Decision-Maker over the Participating Organization's assignment of the patient's care team based on legally protected characteristics.

IV. DEFINITIONS

Emergency Medical Condition	A medical condition manifesting itself by acute signs or symptoms of sufficient severity such that the absence of immediate medical attention could reasonably be expected to result in: <ol style="list-style-type: none"><li data-bbox="527 532 1715 689">1. Placing the health of the individual (or, with respect to a pregnant person, their health or their unborn child) in serious jeopardy, and/or<li data-bbox="527 704 1715 796">2. Serious impairment or dysfunction of any bodily function, organ, or body part.
Health Care Decision-Maker	A specified health care agent, parent/custodian, court appointed guardian or surrogate decision- maker, acting on behalf of a patient

V. RESPONSIBILITIES AND PROCESS

A. JHM Community Members

1. For Patient Preference requests involving a legally protected characteristic:
 - a. If a patient or Health Care Decision-Maker expresses a Patient Preference that involves a JHM Community Member, the person to whom the Patient Preference is communicated shall immediately notify the department manager/shift director, attending physician or other appropriate person of the Patient Preference.
 - b. The department manager/shift director will inform the attending physician/designee, if not already notified.
 - c. If the request is for a specific-gender provider and does not clearly fall within the exception for such requests stated above in Section III, the department manager/shift director or attending physician shall consult with the JHHS Legal Department (410-955-7949) regarding whether the facts justify the exception and reach a decision.
 - i. For exception III.3 '*When the patient is experiencing an emergency medical condition*', once the emergency medical condition has resolved, staff should revert back to the process starting in V.A.1.a. above.

V. RESPONSIBILITIES AND PROCESS

- d. The department manager/shift director or attending physician shall discuss the decision with the patient and/or the patient's Health Care Decision-Maker that:
 - i. The Participating Organization does not permit discrimination against JHM Community Members;
 - ii. The JHM Community Member wishes to continue to render services; and
 - iii. The patient has the right to seek services elsewhere, if not satisfied with the decision.
- e. The JHM Community member will not be removed from the patient's care UNLESS they specifically request not to interact with the patient, health care decision-maker, or visitor."
- f. The discussion shall be documented by the attending or manager/supervisor in the patient's medical record after communicating with the JHHS Legal Department (Attorney On Call).

NOTE: The language highlighted above is being added to the policy.

V. RESPONSIBILITIES AND PROCESS

2. For Patients, Healthcare Decision-makers or Visitors who express Discriminatory Aggression:

- a. For Patient or Healthcare Decision-maker:
 - i. Notify attending physician and develop a plan.
 - ii. See your facility-specific administrative (involuntary) discharge policy.

- b. For Visitor:
 - i. Inform the visitor that their Discriminatory Aggression will not be tolerated.
 - ii. Evaluate the need to implement a visitor restriction
 - iii. If aggression continues, notify Office of Public Safety/designee to escort the visitor off the premises. Allowing the Visitor to return will require approval by the Participating Organization's Executive Leadership.

V. RESPONSIBILITIES AND PROCESS

3. It is recommended to have the Office of Public Safety (i.e., Corporate Security) present when the patient or Health Care Decision-Maker is advised of the decision, if indicated based upon past behavior or there is a concern the Discriminatory Aggression may escalate or become assaultive.
4. The department manager/shift director shall offer JHM Community Members with support services (e.g., RISE, Johns Hopkins Employee Assistance Program {EAP}).

V. RESPONSIBILITIES AND PROCESS

B. JHHS Legal Department (Attorney On Call)

1. The JHHS Legal Department shall assist the department manager/shift director and attending physician or designee in reviewing and resolving Patient Preference requests.
2. If the JHHS Legal Department representative determines that an exception exists, they shall inform the department manager/shift director or attending physician/designee verbally or in writing that the Patient Preference may be accommodated.
3. If the issue concerns a JHU faculty, staff, post-doctoral fellow, resident, or student, JHHS Legal staff will notify JHU Legal staff.

V. RESPONSIBILITIES AND PROCESS

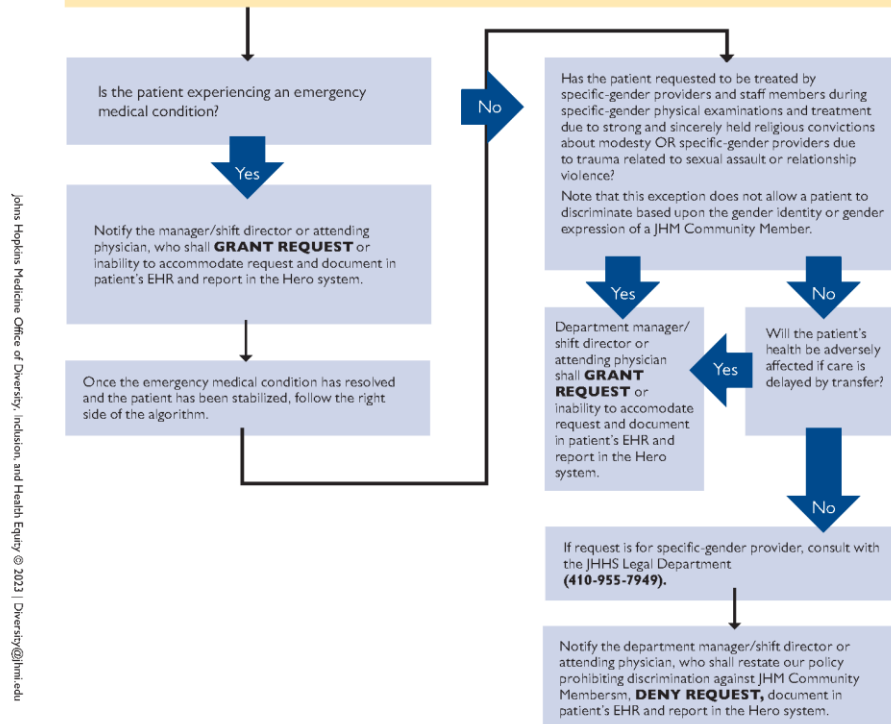
- C. Documentation of Patient Preference and/or Discriminatory Aggression based upon a legally protected characteristic
 - 1. If Patient Preference based upon a legally protected characteristic:
 - a. If approved exception is a granted, the department manager/shift director or attending physician shall document in the electronic health record (EHR) and in the Hero system.
 - b. If exception is not granted or is unable to accommodate the request, the department manager/shift director or attending physician shall document in the patient's EHR and in the Hero system.
 - 2. If Discriminatory Aggression based upon a legally protected characteristic by,
 - a. Patient or Health Care Decision-maker: The department manager/shift director or attending physician shall document Discriminatory Aggression in the patient's EHR and the Hero system.
 - b. Visitor: Office of Public Safety (i.e., Corporate Security) shall document per their standard operating procedure.

Response Algorithm

Fact Sheet: Responding to Discrimination and Discriminatory Aggression by Patients, Health Care Decision-makers, or Visitors Against JHM Community Members

The Participating Organizations provide patient care in a manner that respects a patient's right to be an active participant in their treatment and that adheres to high standards of patient care while also protecting all members of the Johns Hopkins Medicine (JHM) community from discrimination by patients, health care decision-makers, or visitors. Discrimination could be in the form of objecting to or acting aggressively toward a JHM Community Member based on a legally protected characteristic. Use the following algorithms as a guideline for responding.

A Patient or Health Care Decision-Maker expresses a patient preference involving a legally protected characteristic.

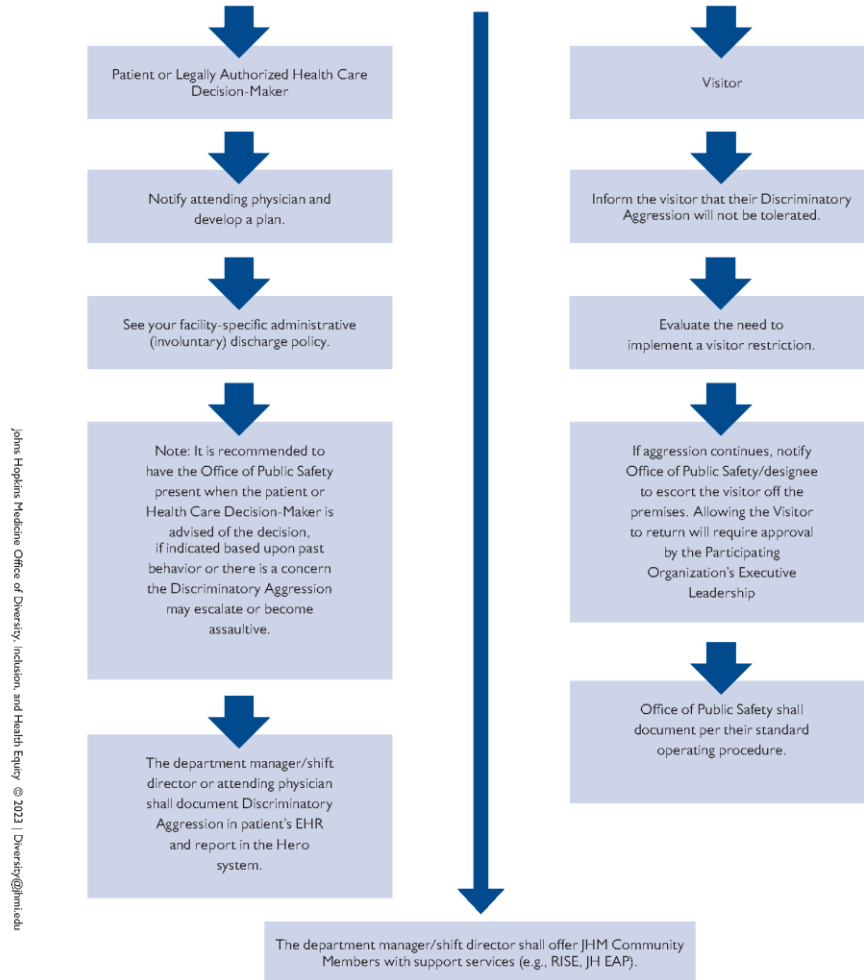


Appendix A.

<https://hpo.johnshopkins.edu/doc/fetch.cfm/WitYGDlj>

A Visitor, Patient, or Health Care Decision-Maker expresses Discriminatory Aggression

See also [Workplace Violence Type 2: Patients and Visitors on Staff \(ADMINSEC004\)](#)



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Appendix A.

<https://hpo.johnshopkins.edu/doc/fetch.cfm/WitYGDlj>

Examples of Scripted Responses

Examples of Scripted Responses to Patient Preference Request

1. “Help me understand your request.”
2. “We are here to help you as a team. We do not change doctors/nurses, etc. because of their race, ethnicity, religion, etc.”
3. “All JHM 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.”
4. All of our medical staff are credentialed and licensed to practice. 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.”
5. “I would trust this physician/nurse/therapist/etc. to care for my own child/family member.”
6. “We want to provide you with excellent care and believe that _____ is the right person to do so.”
7. “JHM hires the best and brightest people to care for our patients, regardless of their race, ethnicity and gender, etc.”

Examples of Scripted Responses to Patient Preference Request

8. Diversity, inclusion, respect, and collegiality are Johns Hopkins Medicine Core Values. Our staff members are expected to treat all patients with dignity and respect and we expect the same mutual respect from our patients.
9. Refer the patient/health care decision-maker and visitor to the Patient Rights and Responsibilities [website](#) and your facility's Patient and Family handbook for patient behavior expectations.

Illustrative Case Studies

These case studies are based upon actual incidents that have occurred at Johns Hopkins Medicine. The identities have been changed to protect the privacy of the individuals involved.

CASE 1

Dr. Fatima Mohammed, wearing her hijab, arrived to the inpatient unit to greet her next admission, an elderly woman brought to the hospital by her sister. As Dr. Mohammed extended her hand to introduce herself, the patient recoiled and asked, “Where are you from? I don’t want a Muslim terrorist taking care of me! I want another doctor.” The patient is ill, but not unstable, and has decision-making capacity.



This case exhibits both a discriminatory patient preference and discriminatory aggression based upon the legally protected characteristics of race, religion, and national origin. This patient preference should not be accommodated and Dr. Mohammed should not have to experience this behavior.

Recommended Response

- **From Dr. Mohammed:** “I am the doctor who has been assigned to care for you. Like all doctors here at Johns Hopkins Medicine, I am highly qualified to deliver the best care. We do not switch doctors because of race, religion, or national origin.”
- **From the staff members who witness this interaction:** “Johns Hopkins hires the best and brightest doctors and Dr. Mohammed is one of our stars. I would entrust my own family members to her care.”
 - This bystander allyship is important in supporting Dr. Mohammed.

Recommended Response

- **From department manager/shift director or attending physician (if the patient persists):** “I understand that you do not want a Muslim person taking care of you. Dr. Mohammed is a highly competent and respected physician. Johns Hopkins Medicine does not allow discrimination against JHM Community Members, and replacing Dr. Mohammed would be illegal discrimination. Diversity, inclusion, respect, and collegiality are Johns Hopkins Medicine Core Values. Our staff members are expected to treat all patients with dignity and respect and we expect the same mutual respect from our patients. We would like to continue to care for you, if you agree to abide by these expectations. If you are unable to do so, we will have no other choice than to facilitate transfer to another facility.”
 - This bystander allyship is important in supporting Dr. Mohammed.

Recommended Response

- Document the discrimination and discriminatory aggression in the EHR and the Hero system.
- If not resolved and transfer appears likely: Alert the Attorney on Call.
- If Dr. Mohammed is a trainee (resident or fellow), she should inform the attending physician of the situation, and the attending physician should reinforce the policy. The attending physician should also alert JHHS Legal, who will notify JHU Legal.
- After this encounter, make sure to follow up with Dr. Mohammed to allow space for her to share and process this experience and offer support services, such as speaking with her leadership, or engaging RISE or Johns Hopkins EAP.

CASE 2

Joanne Davis is a radiology technician who is a transgender woman. She is assigned to the Breast Imaging Center and when performing her third mammogram of the morning, the patient says, “I am not comfortable with you doing my mammogram. I prefer to have a real woman do my exam.”



The patient is requesting a gender-specific provider that is not based upon one of the acceptable exceptions. This case exhibits both a discriminatory patient preference and discriminatory aggression based upon the legally protected characteristics of gender identity and gender expression. This patient preference should not be accommodated and Ms. Davis should not have to experience this behavior.

Recommended Response

- From Ms. Davis: “I am assigned to perform mammograms today and am highly qualified to do so. Here at Johns Hopkins, we do not switch care team members because of patient preferences about gender identity or gender expression.”
- From the staff members who witness this interaction: “Ms. Davis is an excellent technician—we only hire the best here at Johns Hopkins.”
 - This bystander allyship is important in supporting Ms. Davis.

Recommended Response

- From the department manager/supervisor (if the patient persists): “I understand that you have concerns about Ms. Davis performing your mammogram. Ms. Davis is a highly qualified and respected technician. Johns Hopkins Medicine does not allow discrimination against JHM Community Members, and replacing Ms. Davis because of your personal beliefs would be illegal discrimination. Diversity, inclusion, respect, and collegiality are Johns Hopkins Medicine Core Values. Our staff members are expected to treat all patients with dignity and respect and we expect the same mutual respect from our patients. We would like to continue to care for you, if you agree to abide by these expectations. If you are unable to do so, you are free to seek a mammogram elsewhere.”
 - This bystander allyship is important in supporting Ms. Davis.

Recommended Response

- Document the discrimination and discriminatory aggression in the EHR and the Hero system.
- After this encounter, make sure to follow up with Ms. Davis to allow space for her to share and process this experience and offer support services, such as speaking with her leadership, or engaging RISE or Johns Hopkins EAP.

CASE 3

A patient calls the Billing Office to discuss a questionable charge related to her last outpatient visit. Almira introduced herself and shared that she'll be happy to assist the patient. In the middle of the discussion the patient interrupts Almira and says, "You sound Hispanic. Can I speak to someone white instead?" The patient insists that she does not believe that Almira understands her concern.



This case exhibits both a discriminatory patient preference and discriminatory aggression based upon the legally protected characteristics of race, ethnicity, national origin, language spoken, and accent. This patient preference should not be accommodated and Almira should not have to experience this behavior.

Recommended Response

- From Almira: “I am unable to transfer you. Johns Hopkins only honors requests to transfer that are not discriminatory. We do not switch billing representatives because of the race, ethnicity, national origin, language spoken, or accent of the person answering the phone. If you would like to resolve the billing issue you are calling about, I am perfectly capable of investigating and resolving your concern and happy to do so. Would you like to talk about your billing concern?” or “Would you like to continue with this conversation?”

Recommended Response

- From the department manager/supervisor, if immediately available (if the patient persists): They may join the call to say, “Johns Hopkins Medicine does not allow discrimination against JHM Community Members, and replacing Almira because of your personal beliefs would be illegal discrimination. Diversity, inclusion, respect, and collegiality are Johns Hopkins Medicine Core Values. Our staff members are expected to treat all patients with dignity and respect and we expect the same mutual respect from our patients.” Then, allow Almira to finish the call with the patient.
 - This bystander allyship is important in supporting Almira.

Recommended Response

- Document the discrimination and discriminatory aggression in the Hero system.
- After this encounter, make sure to follow up with Almira to allow space for her to share and process this experience and offer support services, such as speaking with her leadership, or engaging RISE or Johns Hopkins EAP.

CASE 4

A patient comes in to the adult emergency department with an acute lower GI bleed and is hemodynamically unstable—hypotensive and tachycardic with shallow breathing, and lacks capacity. A gender mixed care team starts tending to the patient to stabilize her. Her husband exclaims, “We don’t want any male staff members treating my wife!” The wife is semi-conscious, clinically unstable, and does not have capacity to make health care decisions.



Emergency Medical Condition Exception

In the context of the patient being clinically unstable and lacking decision-making capacity, the patient's husband requested a gender-specific care team. This case exhibits a discriminatory health care decision-maker preference on behalf of the patient based upon the legally protected characteristic of gender, in the context of an emergency medical condition. Initially, this preference may be accommodated, if possible. However, once the emergency medical condition has resolved, the patient/legally authorized healthcare decision-maker should be informed that this request can no longer be accommodated. Staff should revert back to the process outlined in the policy.

Recommended Response

- Acknowledge and accommodate the request, if possible, and state to the husband, “I hear you, but right now we need to focus on stabilizing your wife and then we can talk.”
- Once the patient is stabilized, whether or not she has regained decision-making capacity, inform them we are no longer able to abide by the original gender-specific care team patient preference request because it is against our policy.

Recommended Response

- From department manager/shift director or attending physician (if the patient persists): “I understand that you do not want certain care team members assigned to your wife because of their gender. We accommodated your request about the gender make up of her care team due to the emergent nature of her condition. Now that we have stabilized her medical condition, we will no longer continue that accommodation. Johns Hopkins Medicine does not allow discrimination against JHM Community Members, and replacing them based upon their gender would be illegal discrimination. Diversity, inclusion, respect, and collegiality are Johns Hopkins Medicine Core Values. Our staff members are expected to treat all patients with dignity and respect and we expect the same mutual respect from our patients. We would like to continue to care for her, if you agree to abide by these expectations. If you are unable to do so, we will have no other choice than to facilitate transfer to another facility.”
 - This bystander allyship is important in supporting the care team.

Recommended Response

- Document the discrimination in the EHR and the Hero system.
- If not resolved and transfer appears likely: Alert the Attorney on Call.
- If the team members involved are trainees (medical students, residents or fellows), inform the attending physician of the situation, and the attending physician should reinforce the policy. The attending physician should also alert JHHS Legal, who will notify JHU Legal.
- After this encounter, make sure to follow up with the team members to allow space for them to share and process this experience and offer support services, such as speaking with their leadership, or engaging RISE or Johns Hopkins EAP.

CASE 5

A patient was admitted to the hospital for abdominal surgery. As he was waiting to be prepped, his nurse and a clinical technician entered and, upon seeing them, he pulled his blanket up close to his neck and began shouting to them, “Don’t come near me. I don’t want any colored gals touching me. Doesn’t this place have any white people here to take care of me? You should take care of your own kind.” Both the nurse and the clinical technician were visibly upset and left the room to inform the charge nurse.

This case exhibits both a patient preference and discriminatory aggression based upon the legally protected characteristic of race. This patient preference should not be accommodated and the nurse and clinical technician should not have to experience this behavior.

Recommended Response

- From the charge nurse who is informed of this interaction:
“The nurse and clinical technician are highly qualified to prepare you for surgery. Here at Johns Hopkins, we do not switch care team members because of race.”
 - This bystander allyship is important in supporting the nurse and clinical technician.

Recommended Response

- From department manager/shift director or attending physician (if the patient persists): “I understand that you only want white people taking care of you. The nurse and clinical technician are highly qualified to take care of you. Johns Hopkins Medicine does not allow discrimination against JHM Community Members, and replacing them would be illegal discrimination. Diversity, inclusion, respect, and collegiality are Johns Hopkins Medicine Core Values. Our staff members are expected to treat all patients with dignity and respect and we expect the same mutual respect from our patients. We would like to continue to care for you, if you agree to abide by these expectations. If you are unable to do so, you are free to seek surgery elsewhere.”
 - This bystander allyship is important in supporting the care team.

Recommended Response

- Document the discrimination and discriminatory aggression in the EHR and the Hero system.
- If not resolved and discontinuation of the scheduled elective procedure appears likely: Alert the Attorney on Call.
- After this encounter, make sure to follow up with the nurse and clinical technician to allow space for them to share and process this experience and offer support services, such as speaking with their leadership, or engaging RISE or Johns Hopkins EAP.

Important Take-Home Points

Important Take-Home Points

- Report incidents immediately when they arise. Timeliness in reporting will facilitate an appropriate response to prevent JHM Community members from experiencing further harm.
- Bystander allyship in the moment is extremely important in affirming your colleague, who has been harmed, and is a crucial step to creating a welcoming and inclusive environment.
- Acknowledge that the event has occurred. Do not discount, dismiss, or minimize what your colleague has experienced.
- Do not remove your colleague from the patient's care **UNLESS** your colleague specifically requests not to interact with the patient, health care decision-maker, or visitor.

Important Take-Home Points

- Make sure to check in with your colleagues to allow space for them to share and process their experiences.
- Offer support resources.
 - Encourage your colleagues to speak with their leadership.
 - Employee Assistance Program (EAP)
 - All Johns Hopkins Health System employees can access JHEAP by:
 - **Phone:** 888-978-1262
 - **Online:** www.myccaonline.com, Company Code: JHEAP
 - **Mobile app:** CCA@YourService | Access Code: JHEAP
 - Resilience in Stressful Events (RISE) [**Note:** This is not just for events involving a medical error. RISE is meant to be an immediate resource for staff to debrief a stressful event soon after it has occurred].
 - <https://intranet.insidehopkinsmedicine.org/rise>

For additional information

- Visit the Patient Discrimination and Discriminatory Aggression website
 - <https://www.hopkinsmedicine.org/diversity/resources/Patient-Discrimination-Policy>
 - Policy
 - Policy PowerPoint Slides
 - Policy Webinar Recording
 - MyLearning FAQ and Key Points for Staff