Exploring the Barriers to Inclusion for Medical Trainees with Disabilities: A Webinar Series

Webinar #2: Barriers and Belief Systems: Evaluating Underperforming Trainees with Disabilities

July 12, 2022, at 3:00 pm ET
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Webinars

Exploring the Barriers to Inclusion: A Three-Part Series

• Barriers and Belief Systems: Entering Medical Education for Learners with Disabilities (recording available)

• **Barriers and Belief Systems: Evaluating Trainees with Disabilities**

• Barriers and Belief Systems: Physicians with Disabilities in Medicine July 26, 2022, at 3:00 pm ET
Learning Objectives:

- **L1** Describe the accommodation determination process, standard accommodations in medical training.
- **L2** Describe process for evaluating underperforming trainees with disabilities.
- **L3** Describe process for responding to a disability disclosure during a promotions committee review.
Information Overload
Sources Informing Webinar

- DOI: 10.1007/978-3-030-46187-4_11
- DOI: 10.1097/ACM.00000000000003421
- DOI: 10.4300/JGME-D-19-00286.1
Sources of Underperformance

- Underperformance = Disability
- Lack of interactive process
- Empathy/Fear drives “failure to fail”

- Academic
- Behavioral
- Personal
- Disability-related
1. The program should determine its essential functions.

2. The program and the individual with the disability should work together to identify the programmatic barriers and their impact on the ability to perform an essential function.

3. The program, working with the individual with a disability, should identify a range of possible accommodations that have the potential to remove the barriers and allow the individual to perform the essential functions.

4. The program should assess the effectiveness of each accommodation and the preference of the individual to be accommodated.

5. Steps in the Interactive Process

6. Once implemented, the program should review the effectiveness of the accommodation in removing the barrier. If ineffective, the program should enter back into the interactive process.
Cycle within a Cycle

- To what end do you engage in the cycle
  - All reasonable accommodations have been identified and exhausted
  - Or you find a reasonable accommodation

*What is unreasonable?*
<table>
<thead>
<tr>
<th><strong>UME</strong></th>
<th><strong>GME</strong></th>
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<tbody>
<tr>
<td>No overnight call/no switching shifts from day/night</td>
<td>Same, depending on size and service of residency</td>
</tr>
<tr>
<td>Protected time for medical appointments (weekly)</td>
<td>Protected time for medical appointments (weekly)</td>
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<tr>
<td>Decompressing clinical curriculum</td>
<td>Extending residency (Depending on size/service)</td>
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<td>Sign Language Interpreter/Captioning</td>
<td>Sign Language Interpreter/Captioning</td>
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<td>Dragon Dictate on Systems or Accessible WOW</td>
<td>Dragon Dictate on Systems or Accessible WOW</td>
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<td>Additional time on exams</td>
<td>Additional time on in-service exams</td>
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<td>Evaluation in simulation lab/practice in simulation</td>
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To determine trainees needs:

- Remediation
- Revision of accommodations
- Referral to appropriate counseling, disability or learning services
- Probation
- Dismissal
Diagnostic OSCE (Patwari, et al.)

Learner with identified disability fails to meet a milestone or competency

Diagnostic OSCE to determine cause of failure

Disability related (disability specialist)

Academic related (academic specialist)

Both found

Add or revise accommodations

Academic remediation

Practice using new accommodations and/or academic skills

Yes

Are additional reasonable accommodations possible?

Yes

Practice using new accommodations and/or academic skills

Disability related failure

Re-test (repeat diagnostic OSCE)

Successful re-test

Follow school’s failure on revised accommodation plan. Learner may not be otherwise qualified.

Academic related failure

Re-engage in curriculum

Follow school’s failure on remediation plan
OSCE
Sim Lab
Benefits

- Controls the trainee’s environment
- Gathers trainee input (in-vivo)
- Determines disability-related barriers
- Allows quickly implementation of new accommodations
- Immediate testing of accommodation efficacy.
Positive Process

Meets Legal obligation
Trainee centered and trainee informed
Builds Trust
Informed Decision Making
Benefits

Doing The Right Thing
1. The program should determine its essential functions.

2. The program and the individual with the disability should work together to identify the programmatic barriers and their impact on the ability to perform an essential function.

3. The program, working with the individual with a disability, should identify a range of possible accommodations that have the potential to remove the barriers and allow the individual to perform the essential functions.

4. The program should assess the effectiveness of each accommodation and the preference of the individual to be accommodated.

5. The program should evaluate whether or not provision of accommodation(s) would impose an undue administrative or financial hardship on the program.

6. Once implemented, the program should review the effectiveness of the accommodation in removing the barrier. If ineffective, the program should back into the interactive process to review potential alternative accommodations.
Zero Hour Disclosure

Definition:

- Disclosure of a disability by a trainee when they discover they are at risk of dismissal, failing out of a program or not having their contract renewed.

Two common scenarios:

- Disability unknown before underperformance
- Pre-existing disability and trainee chose NOT to disclose
Drivers of Zero Hour Disclosures

Unknown Disability, although trainee was displaying deficits consistent with a disability all along.

Trainee disclosed to individual teaching faculty rather than through the prescribed channels of disclosure.

Nondisclosure was driven by gaps in the way they communicate disability accommodation processes to their trainees.
Promotions Committees Should AVOID:

- Armchair diagnosing
- Allowing empathy to guide decision making
- “Predicting” ability to complete the program
Programs responsibilities?

Reasonably accommodate trainee upon disclosure of disability

*Chenari v. George Washington University in 2017 (Summary judgement to school)*

The Court cited the efforts of the university to inform students of their right to accommodations, in keeping with best practices for disability inclusion in the health sciences. Specifically, the University performed the following actions:

1. The disability resource professional (DRP) addressed all first-year students and informed them that “if they have a disability and need to request an accommodation, it is the student’s responsibility to go to [the office] to pursue that matter.”

2. The program included disability-related information in the “First Year Survival Guide” for medical students.

3. The Office of Disability Support Services maintained a website that walked students through the process for obtaining reasonable accommodation. The website included specific instructions about how students with ADHD could obtain accommodations.
Doe v. Board of Regents of the University of Nebraska

A medical student was dismissed for academic deficiencies; First disclosed his diagnosis of depressive disorder during his appeal of the dismissal
Claimed he had not understood his rights under the ADA

The Supreme Court of Nebraska held that the University was not required to consider his late disclosure, as the ADA does not require “clairvoyance” on the part of schools.

The Court noted that when a university provides designated channels for reporting a disability and requesting accommodations, the school cannot be held liable when the trainee fails to avail himself of those channels.
Medical student did not disclose her depression and request accommodations until after she had been warned several times and then dismissed for unprofessional conduct.

The Court found for the University holding that the ADA does not require a school to reconsider or excuse performance that is only later claimed to be due to a disability.
Reasons for Non-Disclosure

- Implicit or Explicit Negative Messaging about Disability
- Bias in the system
- Fear
Safety Nets in Medical Training

- Rapid pace that is unforgiving
- Employ screening programs that are designed for early detection/intervention
- Temporary Accommodations
Law does not prohibit consideration

No legal obligation to ignore requests for reconsideration

- Where information about how to disclose disability was not readily available
- When a trainee has a newly diagnosed disability.

In reviewing cases of underperformance, serious attention should be given to:

- The messaging and culture around being a trainee with a disability
- Poor messaging and misinformation
Secondary Analysis

Ensure
• Ensure the student had equal access to the curriculum

Liaise
• Liaise with the DRPs to determine whether existing accommodations are truly reducing barriers

Engage
• Engage in the Diagnostic Model of Remediation for Trainees with Disabilities
Academic Deficit vs. Disability-Related Barrier

Learner with identified disability fails to meet a milestone or competency

Diagnostic OSCE to determine cause of failure

Disability-related

Revisit accommodations

Practice using new accommodations and/or academic skills

Yes

Are additional reasonable accommodations possible?

No

Disability-related failure

Retest (Repeat Diagnostic OSCE)

Successful retest

Follow school's failure on revised accommodation plan. Learner may not be otherwise qualified.

Knowledge or Clinical Skills

Both found

Academic Remediation

Academic related failure

Follow school's failure on remediation plan.
When there is a newly diagnosed or acquired disability

- Engage in an interactive process to determine what/if any accommodations might be reasonable.
- Is it reasonable to conclude that the disability and functional limitations negatively affected the trainees’ performance?
- Is there a reason to conclude that reasonable accommodations may reduce the barriers to learning for the trainee?
- Is the level of competency and knowledge sufficient to progress in program or would potential deficits or gaps in learning cause disruptions in future assessments? Consider remediating more than one test or course.
- Does the trainee have a plan that is a) reasonable b) actionable and likely to improve performance?
When there is a history of disability prior to entering the program

• Did the trainee request accommodations? If no, why not? Was this poor professional judgment, fear of stigma, or lack of access of information about how to disclose and request accommodations?

• Is this a potential professionalism issue, does the student have good insight and self-regulation?

• Is it reasonable to conclude that the disability and functional limitations affected the trainees’ performance?

• Is there a reason or evidence to conclude that the assigned accommodations removed the barriers to the trainees’ ability to perform?

• Does the trainee have a plan that is a) reasonable b) actionable and 3) likely to improve performance?
Meaningful Inclusion

• Goes beyond legal requirements
• Ensures a welcoming environment
• Maintains clear and transparent policies about disability disclosure
Please use the Q & A function to ask questions