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TO: MEMBERS OF THE LONG ISLAND JEWISH ORGANIZED MEDICAL STAFF

The following report concerning sexual harassment was in the "pipeline" and recent stories and headlines make the topic even more relevant today.

The federal government has used its powers under the Civil Rights Law of 1964 but we will focus primarily on the similar New York statute as the latter applies to ALL employers whereas the federal is limited to those with 15 or more employees. Further, for those practicing in New York City you are confronted with a law which has a broader view of what does or does not constitute harassment.

We would direct your attention to the matter of imputed knowledge. You, as an employer, is deemed to have knowledge of a harassment which took place if a co-owner (partner) or manager was involved in the incident. What corrective or disciplinary steps were taken? It is your responsibility under these circumstances although you had no direct knowledge.

If you have anyone in your employ who has a sufficient degree of control over the work performed by another employee and the latter suffers harassment by his/her "superior" then once again you are imputed to have knowledge and be liable.

An issue concerning sexual harassment may arise from the actions of a patient towards an employee of the medical practice – from actions of vendors - you can almost fill in the blanks of who may be a perpetrator. Once again, even if the matter is not reported to you, the employer, you will be imputed to have knowledge of the event.

The law has been applied so that if you knew or should have known of the harassment and failed to take action you will be held responsible.

The laundry list of the consequences of falling afoul of these laws include lawsuits – and if more than one claimant – possible class actions. Speaking from representing physicians who have accidentally stepped into a hornet's nest one can certainly expect action being taken by the New York State Division of Human Rights and protracted explanations and meetings to avoid further and expensive consequences.

Every office should endeavor to establish a written protocol not only clearly defining and banning sexual harassment in that work environment but also the methodology for lodging an internal complaint and the mechanics of handling the complaint. If there is a complaint which is presented you must conduct a thorough investigation and remediate as needed and thoroughly document all which transpires.

Respectfully submitted,

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