



VETERINARY BUSINESS ADVISORS, INC.

Trending Issues in Human Resources

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To help protect a hospital and to help ensure fair and consistent workplace practices, it is crucial to write clear and comprehensive human resource (HR) policies that are then distributed and discussed. Here is an overview of what you need to know about some hot topics in the field of HR that require well thought out, enforceable policies.

Social Media

Here's an issue of increasing relevance concern to employers: how to deal with employees' social media messages that relate to their companies and brands.

For example, what if an employee feels bullied by his or her boss – and posts that thought on Facebook or tweets it on Twitter? Or complains about a customer who is a “quack,” or otherwise criticizes employers or customers on social media platforms? These quick examples highlight how a social media policy is crucial to have, and this policy should:

- Warn employees that they will be disciplined, and possibly fired, if they post proprietary and confidential company or client information, or make discriminatory or defamatory statements or sexual innuendos about the practice, co-workers, management, clients or vendors.
- Advise employees that any blogs or social media postings must include a disclaimer that "any opinions expressed are the employee's own and do not represent the company's positions, strategies or opinions."
- Remind employees to conduct themselves professionally both on and off duty.

Numerous companies, though, have been found to have social media policies that are too broad or otherwise unlawful based on National Labor Relations Board (NLRB) decisions. Here's how one real-life situation played out: in February 2011, an ambulance company in Connecticut fired an employee who criticized her supervisor on Facebook. The company had overly broad social media policies, though, and ultimately needed to settle the complaint with the NLRB.

In December 2014, the NLRB determined that employees are allowed to use employer email systems for union organizing and other protected concerted activities, including complaining about working conditions. More specifically, employees have a right to:

- use their work e-mail to engage in “statutorily protected discussions about their terms, AND conditions of employment while on nonworking time.”

- send each other e-mails during break time, meal periods, or after work about any issues or complaints they mutually have with their wages, benefits, work schedules, and any other conditions of employment

Work Place Gossip

When people who work at a veterinarian's office gossip, and the manager doesn't effectively address the situation, the workplace quickly becomes toxic. Some managers don't address the gossip because they are turning a blind eye (or, more accurately, ear!) to what employees are doing. And, unfortunately, sometimes the managers are active participants in the gossiping, which makes the situation even worse.

Gossip, unchecked, can lead to significant productivity and morale issues. Star employees will likely begin to look for work at another practice, which leads to costly turnover, and significant cases of malicious gossip can lead to legal liability issues for the practice.

So, how should workplace gossip be handled?

Dealing with Pregnant Employees

When you are made aware that an employee is pregnant, the next step is to schedule a meeting between the pregnant employee and the office/safety manager. During this meeting, the employee should be reminded of the potential risks to the developing fetus that exist in the workplace. Such risks may include:

- radiation exposure;
- handling hazardous chemicals/drugs (e.g. pesticides, hormones, chemotherapeutic agents, etc.);
- exposure to anesthetic gases – especially during “hard-to-scavenge” procedures such as masking and waste anesthetic gases;
- exposure to infectious or zoonotic diseases – especially when handling fractious animals (e.g. rabies, tetanus, lyme disease, salmonellosis, leptospirosis, chlamydiosis, etc.); and
- over-exertion associated with lifting/restraining patients.

Employees should also be advised to seek medical advice from their obstetrician regarding the potential workplace risks.

Remember to keep a written record of all meetings with employees. The following form can assist with making sure all appropriate steps are taken with regards to the pregnant employee.

While employers have a duty to make reasonable accommodations for pregnant employees, when such accommodations are recommended in writing by the employee's doctor, employers must remember that the decision as to whether to avoid workplace hazards during pregnancy remains in the sole discretion of the employee. It is unlawful for employers to prohibit an employee from working in her usual capacity simply because she is pregnant.

The employer, however, can take some comfort in the fact that many of the risks that exist in veterinary practices can be minimized by following proper safety precautions (which should already exist in the form of written Practice policies). Indeed, the news of an employee's pregnancy is a good opportunity for employers to review the Practice's safety policies and ensure that all employees are following them.

Once the employee is fully informed of the potential risks and has had an opportunity to seek the advice of her doctor, the employee may:

- elect to continue to work in the same position with no accommodations (except, perhaps, for the use of a fetal radiation monitor);
- seek to continue to work in the same position with accommodations as recommended in writing by her doctor (e.g. no radiation exposure; no lifting over 20 pounds, etc.);
- seek to work in a different position (e.g. in an administrative position) based on the written recommendation of her doctor; or
- elect to take a leave of absence based on the written recommendation of her doctor.

Employers should be prepared, however, for the possibility that things will change as the employee's pregnancy progresses. For example, the employee who elects to continue on with her work unchanged will undoubtedly find later in her pregnancy that it is difficult, if not impossible, to continue to lift/restrain patients. As a result, the employer should encourage the employee to come forward with all concerns or requests at any time. The employer should also reassure the employee that the Practice is open to the possibility of making reasonable accommodations to the employee's duties, as recommended in writing by the employee's doctor, down the road.

If the employee requests a transfer to a more administrative position, her request should be accommodated if:

- there is a position available;
- the employee is qualified for such position; AND
- the value of the accommodated position to the employer is similar to the value of the pregnant employee's original position.

Note that an employer is under no obligation to create a new position for its pregnant employees. When considering a pregnant employee's request for a change of position, the employer should also be mindful of the Practice's employee manual in relation to disability to ensure that it is acting in a consistent manner and treating all of its disabled employees in similar fashion

#MeToo

The #MeToo movement started last fall with claims of sexual harassment and rape against movie producer Harvey Weinstein. Before long, dark shadows were cast over other powerful men — from entertainment personalities Matt Lauer, Kevin Spacey, Russell Simmons and James Franco to politicians Al Franken and Roy Moore.

Although any accusation typically gets more publicity when a celebrity is involved, sexual misconduct occurs in all walks of life. What will you do — and should you do — as a veterinary practice owner or manager if an employee lodges harassment claims? What if the employee joins the #MeToo movement and goes onto social media to name names at your hospital?

If your team has a sexual harasser, your practice may be one complaint away from a disaster. How should your practice respond to the multilayered issue of sexual harassment? Do you know how to respond to complaints and proactively protect your practice?

Workplace Bullying

“You really are a terrible doctor,” the senior associate tells the new grad hire.

“You say that every morning,” the new hire replies, trying to cover up the hurt expression on her face.

“I do,” the senior associate responds with a smirk. “And it’s still true today.”

This is a clear-cut case of workplace bullying – the repeated, unreasonable actions of someone directed towards an employee that are intended to intimidate, degrade, humiliate, or undermine; or that create a risk to the health or safety of the employee. A group of people can bully, too, either towards an individual or another group – and the bullying can be as deceptively mild as a group of receptionists going out to lunch together without inviting the receptionist they don’t like.

The bottom line is that, if the offending behavior is pervasive enough to be considered threatening, intimidating or creating an environment full of hostility, there is potential for a claim of constructive discharge or intentional infliction of emotional distress. An employee could also relate the bullying to protected class discrimination, so a well thought out and strictly enforced anti-bullying policy is vital to create, distribute and discuss to avoid negative consequences for the hospital.

The Drug Landscape

Drug use and abuse in the United States has a negative impact on the workplace, and both drug use and addiction is increasing. Heroin use, for example, is increasing among most demographics, including in both genders, in people aged 18 and up, in non-Hispanic whites, across the income spectrum and for people with and without health insurance. There has been a 286 percent increase in heroin addiction (2002-2013). Prescription opioids are also problematic, with overdose admissions going from 35,648 in 2001 to 180,708 in 2011. In 26 states and the District of Columbia, there is now legalized marijuana, at least medically and sometimes also recreationally.

Alcohol and drug abuse cost businesses in the United States \$81 billion in just one year because of lost productivity. Substance abusers are absent ten times as much as non-abusers, and late three times as much. Moreover, abusers use medical benefits 300 percent more often than non-abusers. Veterinary practices face an additional challenge, that of a drug cabinet full of potentially addictive drugs, both controlled and non-controlled.

Drug testing is an option to address this situation in your workplace. So, what should your practice do?

Steps include:

- Becoming aware of your state's laws on drug testing
- Creating a formal written policy against abuse that contains:
 - Why the policy was established
 - What you expect from employees
 - What the consequences are for employees who break this policy
- Determining the parameters of your practice's drug testing, including:
 - Whom you will test
 - When you will test
 - Why you will test
 - For which reasons you will test
- Logistics of your testing procedures
- Determine how to address potential problems when consider testing, such as:
 - Morale problems and resentment from employees, including those who abuse no substances
 - Whether abuse prevention programs are sufficient without testing
 - The expense, which can be prohibitive for some practices
 - Legal challenges that may arise from testing protocol