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HR HUDDLE

Blurry Lines

Addressing drugs, alcohol, and employer responsibility.

BY KELLIE OLAH, SPHR, CVPM, SHRM-SCP

Q: My technician returned from lunch and was clearly impaired. We suspected she may have been under the influence of a narcotic or another substance, but we did not know for certain. Her daughter also works at the practice and offered to drive her home. Can we allow the employee to leave with her daughter, or does the practice have additional responsibility because we believe she is impaired?

A: My first concern is getting her away from patients and determining whether we are dealing with a safety issue, a medical issue, or potentially both. If a technician comes back from lunch slurring her words, having trouble walking, appearing confused, struggling to stay awake, or behaving in a way that makes you reasonably believe she is impaired, remove her from patient care immediately. She should not be handling patients,

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medications, controlled substances, or equipment while you determine what is happening. But I would be careful about assuming that the next step is simply sending her home.

If we suspect narcotics or another substance may be involved, we have to consider the employee's physical condition. Is she alert and able to answer questions appropriately? Is she becoming increasingly confused or difficult to wake? Is her condition getting worse? Are we unsure what she may have taken or how much? If there is any question about whether she is medically stable, I want medical professionals involved. This is not something a practice manager should try to assess on their own.

The same applies when we don't know whether drugs are involved at all. A medical emergency can look like intoxication. If I can't reasonably tell what I'm dealing with, I would rather have the employee medically evaluated than assume she is impaired and send her home. If she's alert, responsive, and medically stable, and the situation doesn't appear to require emergency assistance, then having her adult daughter drive her home may be appropriate. I would not tell an obviously impaired employee to go home, and leave her to make her own transportation decision. If she isn't capable of safely performing her job, I wouldn't assume she's capable of safely driving herself.

While all of this is happening, document what you actually observe rather than trying to diagnose the cause. "She had difficulty keeping her eyes open and was unable to answer questions clearly" is very different from "She was high on narcotics." Stick with the facts. Whenever possible, have a second manager observe the employee and independently document what they see.

Once the immediate safety and medical concerns are addressed, we can deal with the employment side of the situation. Review your reasonable suspicion, drug and alcohol testing, and fitness for duty policies, and determine what your policy and state law allow you to do next. Because this is a veterinary technician who may have access to controlled substances, I would also verify the practice's controlled substance inventory and records. Initially, that's a fact-finding step, not an accusation. If controlled substances are missing or the records reveal evidence suggesting theft or diversion, we have a different and much more serious situation.

The important thing is not to lump everything together. An employee who appears impaired may need medical attention. She may have a substance-related issue. She may be experiencing an entirely unrelated medical emergency. And if controlled substances are missing, there may also be a separate theft or diversion investigation. Get her away from

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patients. Assess whether medical assistance is needed. Make sure she does not drive. Document what you actually observed. Then investigate what happened and address any controlled substance concerns separately.

Having her daughter take her home may ultimately be part of the solution, but it should not be the automatic solution simply because someone is available to drive her.

Q: Our practice hosted a voluntary team-building event at a baseball game. Attendance was not required, employees were not paid to attend, and the practice did not purchase or provide alcohol. One employee purchased alcohol at the stadium and became noticeably intoxicated. Since this was a voluntary event and the practice did not provide the alcohol, does the practice have any responsibility or potential liability?

A: This is where "voluntary" can give employers a false sense of security. It certainly helps that attendance was optional and that the practice did not purchase or provide the alcohol. But this is still an event organized by the practice for its employees. I would not assume that everything that happens there is automatically outside the practice's responsibility.

The bigger question is what management does once it becomes obvious that an employee has had too much to drink. If I see an employee stumbling, slurring her words, or becoming disruptive, I am going to intervene. I definitely wouldn't watch that employee walk toward the parking lot knowing she intends to drive herself home.

Could the practice ultimately be legally responsible if she leaves and causes an accident? That depends on the circumstances and the law in that state. But I would much rather explain that management recognized the problem and arranged safe transportation

than explain why everyone knew she was intoxicated and did nothing.

Call a rideshare. Contact a spouse or family member. Have a sober person drive her. And if her condition is serious enough that you are worried about her physical well-being, get medical assistance. There is another reason not to ignore excessive drinking at these events. Driving is only one potential problem. Alcohol can also lead to arguments, injuries, inappropriate comments, harassment, or conduct

between coworkers that becomes an HR issue on Monday morning. Leaving the hospital does not mean everyone stops being coworkers.

This is also why expectations should be communicated before practice-sponsored events. Employees should know that attendance is voluntary, alcohol is their own responsibility, appropriate behavior is still expected, and workplace conduct standards do not disappear because everyone is sitting in a baseball stadium instead of the break room. You don't need a manager standing there counting everyone's drinks. But when someone is obviously intoxicated, don't look the other way simply because the practice didn't buy the beer. **TMB**

HIGH TIME FOR A POT POLICY?

Q: Two veterinarians went to lunch together during the workday. One stopped at a dispensary and purchased marijuana gummies for the other veterinarian. Both are legally old enough to purchase and possess marijuana in that state. They returned to the practice, and the gummies were placed in the receiving veterinarian's car. Neither veterinarian consumed them at work, and neither appeared impaired. Several employees later reported what happened. What should the practice do?

A: Don't make this bigger than it is, but don't ignore it either. You have employees reporting that marijuana was purchased during lunch, brought back to the practice, and given to another employee. You don't have evidence that either veterinarian consumed it or was impaired while treating patients.

First, figure out what actually happened. Speak individually with the employees who reported it. Ask what they saw or heard. Did someone actually see the gummies being exchanged? Did one of the veterinarians tell them what happened? Or has the story made its way around the hospital, and now everyone is repeating it? Then, talk separately with the two veterinarians and allow them to explain.

Once you establish the facts, look at your policy. Does it prohibit cannabis on practice property? Does your definition of practice property include the parking lot or an employee's personal vehicle? Does the policy address employees giving or distributing cannabis to coworkers during the workday? If your policy clearly prohibits the conduct and the employees knew the rule, then address the policy violation. If your policy is silent about cannabis being stored in personal vehicles or exchanged between employees, be cautious about suddenly imposing discipline for something the policy doesn't clearly address. You may have just discovered a hole in your policy that needs to be fixed.

Don't forget about the employees who reported it. Thank them for bringing the concern to management, and let them know it will be handled. They don't need a play-by-play of the investigation, and they don't need to be told whether someone was disciplined.

Marijuana laws are changing quickly and vary by state, so the practice should confirm what it can legally prohibit before taking disciplinary action. But this situation raises a larger question every practice should be able to answer: Do your employees actually know your rules about cannabis? If the answer is, "I'm not sure," that may be the most important thing this incident uncovered.



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