

Handling Difficult Employees: Policy Reference Guide, Part II



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As previously discussed, discharge or termination of employment is justifiably referred to as the capital punishment of the workplace. The disruptive impact a disciplinary termination can have on a practice may be determined by how it is handled. Don't put one bad decision (wrongful discharge) on top of another (the hiring).

The employment-at-will rule is alive in many states, but this absolute authority to do as one likes is eroding. Courts are ruling in favor of employees because legislation has created exceptions in the rule. Today, employees realize that just about anyone can file a lawsuit or seek assistance from a government agency. So, must you retain employees that do not meet your expectations? No, and here's how!

WHAT TO DO?

Remember to hire smart, establish the employment-at-will relationship early, follow the golden rule by treating people in a fair manner, avoid adverse disciplinary action in the heat of the moment, and follow a sound progressive disciplinary policy.

Not all progressive disciplinary policies are created equal. They have the potential to be a litigant's sword or your shield in court, depending on how they are written. They best serve a practice when prepared ahead of time without emotion, absolute language like "will" is avoided, and some flexibility is maintained in their implementation such that for serious violations, at management's discretion an employee can be immediately terminated.

While no magic can protect a practice from potential litigation, the following sample policy is a guideline to help and allow for the reduction of risk associated with disciplinary action.

SAMPLE POLICY

Disciplinary Action

It is important to ABC Medical and the administration of our practice that policies are established. If any employee violates a practice rule, policy, or regulation that is contained in this manual, posted, or verbally conveyed in the practice, disciplinary action may be necessary.

Disciplinary action is a serious matter, and such action will not be taken except when an employee's conduct or performance warrants it as determined at the sole discretion of management. The rules are not designed to unnecessarily restrict the employee, but are intended to promote a safe workplace and fair treatment.

Based on the seriousness of an offense, management may enter into any level of disciplinary action, from verbal correction up to and including termination. Consequently, in case of what is deemed, at management's discretion, a severe rule or policy violation by an employee, dismissal, suspension or final warnings may be made without prior warnings.

Repeated warnings for the same general nature of offenses over a period of time may result in an employee's dismissal. ABC Medical attempts to offer corrective counseling when deemed appropriate. In all events, disciplinary decisions will be made in the best interest of the practice. ABC Medical Practice attempts at its sole discretion to offer corrective counseling when deemed appropriate.

The following procedure has been established as a guideline for disciplinary action:

1) Verbal warning and counseling

Employees may be asked to sign a verbal warning to acknowledge receipt of the counseling, which becomes a part of the employee's personnel file.

2) Written warning and counseling

A verbal or written warning may be issued when the conduct of the employee does not warrant suspension or discharge. Such warnings are considered serious matters, and each written warning becomes a part of an employee's personnel record. Employees may be asked to sign a written warning to acknowledge receipt of the counseling.

3) Suspension Without Pay (1-5 days)

– More serious misconduct or repetition of an offense for which a warning may have been previously issued, may result in disciplinary suspension without pay.

4) Discharge

– Repetition of any offense or offenses similar in nature for which prior discipline may have been imposed may result in discharge from the employment of ABC Medical. It is important to emphasize that an employee may be discharged without prior warning for offenses deemed at management's discretion as serious violations of practice rules, policies, and regulations. ■

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