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Must-Reads for Every Practice

Reinventing the Performance Review

The holidays will soon be upon us and before we know it, it will be that time... time to do annual performance appraisals. So many of us will sit down and complete either a paper or electronic version while trying to remember the last 12 months of performance for each employee. After we complete each one, we will then sit down with each employee and review their performance, their strengths, and their developmental needs. Some of us may be thinking, is this really the best way to do this?

There has been a tremendous amount of research as of late regarding the perceptions of both Human Resources and managers around their organizations' Performance Management Systems. For example, Dana Wilkie reports in "Is the Annual Performance Review Dead?" that CEB research shows more than 9 in 10 managers are unhappy with their companies' annual performance reviews, and almost 9 in 10 HR leaders say the process doesn't produce accurate results. Similarly, in Deloitte Consulting's "Global Human Capital Trends 2014" report, only 8 percent of companies reported that their performance management process drives high levels of value. Conversely, 58 percent of companies reported their process to be not an effective use of time.

Today's work is very different than it has been in the past. Work tends to be more concerted and knowledge-based, which makes it more difficult to measure. There is also the technology factor to consider. Employees crave more real-time feedback vs. an annual review. Progressive organizations are implementing more continuous feedback solutions on a quarterly, monthly, or even weekly basis. While a weekly check-in may not seem realistic, keep in mind that it can be as simple as a coffee break. It's about taking a few minutes to share with the employee what they are doing well and what they could be doing differently in the future, if needed. The discussions should be a balance of positive and negative feedback and should be forward-looking.

Below are some additional "alternative ways of thinking" offered in Wilkie's article:

1. Eliminate all checkboxes and numeric scales. Instead provide clear examples of behaviors, both positive and negative.
2. Provide feedback on things that the employee can change. Focus on behaviors – not personality traits.
3. When giving negative feedback, focus on specific incidents/examples. Talk about YOUR impressions and feelings. Never make judgments.
4. Don't set up your team members in competition with each other.

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Welcome to The Voice Newsletter for Fall 2015

The Voice provides a quarterly update on external regulations at the state and federal level that affect your practice along with timely advice on ways to respond. It is provided as a benefit to Medical Mutual members.

The Voice is written by Breni Malpass, HR Advisor.
You can reach Breni at breni.malpass@callhrexperth.com or 1-800-HREXPRT.

MUST-READs (cont.)

- Focus on strengths more than weaknesses. Focusing on strengths gets people excited and motivated to grow!
- Don't forget about intangible behaviors. Find ways to take into account for those behaviors like boosting morale and helping team members.

HR|Experts is available to talk to you about how to improve your overall performance management system, or about specific performance issues you face today. You can reach HR|Experts at 919-431-6096 or 888-473-9778.

Sources:
Dana Wilkie. "Is the Annual Performance Review Dead?" Society for Human Resource Management. July 31, 2015. Accessed August 4, 2015. <http://www.shrm.org/hrdisciplines/employeerelations/articles/pages/performance-reviews-are-dead.aspx>

Deloitte Consulting LLP and Bersin by Deloitte. "Global Human Capital Trends 2014." Deloitte University Press. (2014.) Accessed August 17, 2015. http://d2mtr37y39t-pbu.cloudfront.net/wp-content/uploads/2014/03/GlobalHumanCapitalTrends2014_030714.pdf

Preventing Workplace Harassment

In the fiscal year 2014, the Equal Employment Opportunity Commission (EEOC) received 26,820 charges filed for harassment and successfully received \$93.9 million in monetary benefits for claimants. Charges filed with the EEOC can result in very costly mistakes for an employer. Prevention is the best tool for avoiding harassment charges.

Under the EEOC's enforcement guidance, an employer's anti-harassment policy must prohibit harassment on all protected categories (not just sexual harassment). This includes harassment on the basis of race, color, sex, religion, national origin, age, genetic information, and disability status. According to these guidelines, the anti-harassment policy must include at a minimum:

- A clear explanation of the prohibited conduct;
- Assurance that employees will be protected against retaliation;
- The ability to make a complaint to more than just the employee's immediate supervisor;
- Confidentiality – to the extent possible;
- Prompt, thorough, and impartial investigations; and
- Assurance that the employer will take immediate and appropriate corrective action when it determines that harassment has occurred.

Furthermore, in order to avoid liability for acts of unlawful workplace harassment, a company must show that it took immediate and appropriate action to eliminate the offensive conduct. In order to avoid such conduct, employers should do the following:

- Maintain a written policy on harassment, communicate it to all employees, and provide multiple avenues for employees to register any complaints.
- Provide training to supervisors on a regular basis.
- Make it clear to all supervisors and employees that harassment on the job will not be tolerated.
- Particular emphasis should be placed on the company's strong disapproval of this conduct.
- Require members of management to report any known harassment.
- Thoroughly investigate any claims of harassment.
- Provide appropriate discipline in cases of harassment.

If you have any additional questions about workplace harassment or would like assistance in revising your policy, please contact HR|Experts today!

NC + VA + GA

Forms of Legalized Marijuana & Employers Rights

Across the nation, new laws vary from allowing use of marijuana for medicinal purposes to recreational purposes have been and are being passed. As an employer you may be beginning to wonder about your rights as they pertain to substance abuse policies in states such as ours where certain forms of marijuana have been legalized. In 2015, Georgia, North Carolina, and Virginia all passed laws legalizing the use of medicinal CBD or low THC oils to treat certain illnesses. **On the next page is a comparison of each of the State Laws.**

Even though research has shown typical CBD oil use should not show up on a drug screening unless taken in excess, it is possible. If such a finding did occur,



	Georgia	North Carolina	Virginia
Law Signed/ Bill	April 16, 2015/ HB 1	July 3, 2015/ HB 766	February 26, 2015/ HB 1445
Qualifying Conditions	Cancer; Crohn's disease; Lou Gehrig's disease; Mitochondrial disease; Multiple Sclerosis; Parkinson's disease; Seizure disorders; Sickle cell disease	Intractable Epilepsy	Intractable Epilepsy
Possession Limits	20oz of Cannabis oil containing not more than 5% THC and an amount of CBD equal to or greater than the amount of THC	Cannabis extracts containing less than nine-tenths of one percent THC and at least five percent CBD by weight	Cannabis oils with at least 15% CBD or THC-A oils with no more than 5% THC.
State Registry/ID Cards	Yes	Yes	No
Dispensaries	No. The law allows University System of Georgia to develop a lot THC oil clinical research program that meets FDA trial compliance.	No. The law only allows university research studies with a hemp extract registration card from the state DHHS or obtained from another jurisdiction that allows removal of the products from the state.	No in-state means of acquiring cannabis products
Allows for Legal Defense	Yes	Yes	Yes
Recognizes Patients from Other States	No	No	No

how would an employer handle it? Do employers still have the right to enforce substance abuse policies?

According to a recent State Supreme Court finding, the answer is more than likely yes. Employers across the nation have been watching the *Coats v. Dish Network, LLC* case and on June 15, 2015 the Colorado Supreme Court finally ruled. The court held that Colorado employers can enforce zero-tolerance drug policies against employees even though they are permitted under state law to use medical cannabis. In addition, they can still enforce those policies even if the employees are only using and are under the influence while not at work or during nonworking hours.

The Coats case will most likely set a precedent for other courts to follow in states where the use of cannabis is legal, even though it is limited to Colorado law. Berlin et al in "Colorado Supreme Court Permits Employers to Enforce Zero-Tolerance Drug Policies Against Medical Cannabis Users" suggest "as long as cannabis remains unlawful under federal law, companies likely can enact and enforce zero-tolerance drug policies even if employees have medical conditions for which they were granted medical cannabis permits under state law." Georgia's law specifically addresses employer's rights by stating "nothing in this article shall require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing

of marijuana in any form, or to affect the ability of an employer to have a written zero tolerance policy prohibiting the on-duty, and off-duty, use of marijuana, or prohibiting any employee from having a detectable amount of marijuana in such employee's system while at work."

As mentioned previously, the use of CBD or THC oils are unlikely to present themselves on an employment drug screen. However, knowing your possible actions as an employer if it should happen are critical. While medical marijuana itself has not been legalized in GA, NC, or VA, there will continue to be a growing effort to have such laws passed in the future. HR|Experts will continue to monitor court cases and new passages of laws to keep you informed.

Sources:
Berlin et al., "Colorado Supreme Court Permits Employers to Enforce Zero-Tolerance Drug Policies Against Medical Cannabis Users." Jones Day Publications, June 2015. Accessed August 12, 2015. <http://www.jonesday.com/colorado-supreme-court-permits-employers-to-enforce-zero-tolerance-drug-policies-against-medical-cannabis-users-06-26-2015/>.

"State Laws." NORML. Accessed August 14, 2015. <http://norml.org/laws>

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