

Be decisive yet sensitive when terminating employees

By Mike Norbut
AMNews Staff
Appeared on April 24, 2006

Letting go of an employee can be an adventure of the worst kind. From arguments and harsh words to rumors swirling among co-workers, a firing or layoff can instantly turn a happy office into a hotbed of animosity.

Worse yet, deciding to let someone go leads you into a labyrinth of delicate issues and potential misstatements that could weaken your position and make you target of a lawsuit.

"Planning is critical to minimizing legal claims," said Mary Drobka, a management, labor and employment attorney and partner in the Seattle office of Davis Wright Tremaine. "I do advise employers to be ready to respond to the 'Why me?' question. If you can't say it at that time, you're not going to be able to say it later to a judge, jury or investigator."

The answer to that question has to be related to business criteria, Drobka said. If you need to lay someone off and there are no guidelines for doing so in your company handbook, you need to focus on performance or seniority rather than, say, an employee's personal life or marital status, she said.

Attorneys and consultants suggest saying only as much as you need to and keeping the conversation with the terminated employee short. If it's a performance issue, the employee likely would know the situation before stepping into the office, especially if there have been documented meetings and signed forms.

"Chances are, a lot has led up to that," said Thomas Weida, MD, a family physician in Hershey, Pa., and professor of family medicine at the Pennsylvania State University College of Medicine. Dr. Weida is speaker of the American Academy of Family Physicians. "If you're firing someone for poor performance, the part to realize is that they fired themselves."

Other employees might not see it the same way, though, which makes a meeting with them a high priority soon after a person is terminated. The more time it takes for you to address the situation with other staff members, the greater the chances of false rumors starting, said David Lewis, president of OperationsInc, a human resources consulting firm based in Stamford, Conn. If you didn't fill other employees in on news of the termination, not only is the message spreading throughout the office probably wrong, it's almost assuredly not the one you would like workers to hear, Lewis said.

In physician practices especially, a termination can be "tantamount to firing a child, sister or uncle" because offices are smaller and everyone tends to work closely together, both literally and figuratively, Lewis said. Those close relationships and the potential for fallout can persuade a physician to overlook flaws as well, to the detriment of the practice as a whole.

"The tolerance level for poor performers is much higher in medical practices than other businesses, because the individual running the business is providing the service," Lewis said. "So that individual tends not to see the flaws or issues that are there."

That means that when it does come time to let someone go, it could either be a total surprise to other staff members, or it could be something they engineered through complaints. But consultants say that if you approach staff management with fairness and consistency, you can maintain credibility with your employees even after a traumatic incident.

That credibility will be tested, too. If you have to lay off someone, for example, when it comes time to sit down with the other employees, they'll have two questions, Lewis said: "Am I next?" And "Who's going to do that job now with that employee gone?" "There has to be some honest, truthful, well-rooted responses to anyone in that room," he said. "If you promise people there will be no more layoffs, the moment you have to do something against that promise, you lose your credibility entirely."

The credibility you earn through a fair and consistent approach can buy you the benefit of the doubt during times when you can't divulge too much information to the group. If you fire someone, you might not be able to elaborate on the reasons to other employees because of potential legal repercussions. Dr. Weida, for example, said he had a situation when all he and his partners could tell other employees was a well-liked staff member was fired because of policy issues.

"What you have to rely on is your previous performance as a manager," Dr. Weida said. "We had to say to staff, 'You know us, you've worked with us for years, you just have to trust us.'" Earning that fair and consistent reputation comes from not only dealing well in termination situations but also knowing when you can't fire someone. For example, chronic absences or tardiness might be a critical issue for a physician group, especially for a front-office position. While it might present an operational problem for your practice if you can't count on a worker being there every day, you need to understand employees might need to be out for various reasons, Drobka said.

"An employee may have the ability to be absent from work due to medical problems," she said. "You need to accommodate them reasonably. Instead of terminating them, you may need to grant them medical leave to let them get better."