



## Safe and Sober: Managing employees who are under the influence

By TDIC Risk Management Staff

Your practice needs the entire team to be sharp and focused for the schedule to run smoothly. So, if you've ever had an employee show up in the morning unable to perform duties, you can expect to have both a hard conversation and a long day. The impact of an employee's substance abuse on a practice extends beyond impaired performance and productivity. Substance abuse leads to higher rates of absenteeism, workplace accidents and patient injuries — all of which impede safety and increase practice liability.

Since every situation is unique, it's best to exercise an abundance of caution when dealing with employees who appear to be intoxicated or under the influence. The Dentists Insurance Company's Risk Management team advises dentists to contact their human resources specialists or an employment attorney for counsel specific to their situations. However, there are some essential steps you can take, and a few actions to avoid, if faced with this challenge.

It starts before you even experience an incident. TDIC recommends that every practice has a detailed drug-free workplace policy, either as part of the employee manual or as a stand-alone document signed at the time of hire. The policy should cover rehabilitation/counseling options and disciplinary actions, including grounds for dismissal. If you intend to conduct reasonable suspicion fitness for duty testing, this should be detailed as well. Contact your attorney for advice specific to your practice.

In addition to having a specific policy in place, the practice owner and the individual who performs human resources duties should both be trained on how to handle these types of sensitive situations. The U.S. Office of Personnel Management (OPM) publishes an online guide entitled [\*Alcoholism in the Workplace: A Handbook for Supervisors\*](#), which can be a helpful training tool.

If an employee does come in to work displaying unusual behavior, observe carefully for the following signs:

- Breath smell
- Bloodshot eyes
- Slurred speech
- Lack of balance

In a case reported to TDIC, a dental assistant came into work on more than one occasion smelling of alcohol. Her performance and interactions with colleagues and patients was declining, and she was using language and a tone inappropriate for the workplace. During one incident when she was acting highly emotional and erratic, the dentist talked to her and addressed the behavior, and then gave her the day off to take care of personal issues. The situation escalated as the employee continued to demonstrate unprofessional behavior, absenteeism and declining performance. The office did not have a drug and alcohol policy in place. Without knowing how to pursue the matter, the dentist contacted TDIC for advice and was referred to an employment attorney.

If an employee in your practice exhibits unusual behavior, document your observation in an objective manner and note only the observable facts in the employee's file. Making a diagnosis or accusation can heighten an already stressful situation and open the practice up to liability. Rather, express concern for patient and coworker safety and state the facts in a manner such as "I am concerned. I have observed you slurring your speech." As there are situations in which an employee behaves erratically due to a prescription medication or a health issue, addressing the underlying behavior and workplace safety is prudent.

Chris Onstott, an employment attorney at Kronick Moskowitz Tiedemann & Girard in Sacramento, Calif., emphasizes the importance of having an additional person at the practice observe and address the uncharacteristic behavior.

"Two individuals in management positions in the practice who have training in recognizing signs of impairment, ideally the dentist and the office manager, should take the employee to an area where they can observe and speak to the employee together without creating a disturbance," advises Mr. Onstott. "If the managers observe behaviors that support a reasonable suspicion of intoxication or impairment, then the next steps can be taken as appropriate to the practice's drug-free workplace policy."

If your drug policy includes fitness for duty testing, and the employee refuses to comply, the employee's refusal may lead to a finding that he or she is being insubordinate. But regardless of an employee's willingness to comply with the testing, you should help provide him or her a safe ride home. Document the interaction and its outcome in the employee's file, along with the employee's behaviors which led to the reasonable suspicion and all of the actions and outcomes that followed.

Every member of the dental team should have a clear understanding of the practice's expectations and the gravity of the drug policy. The role of a practice leader is not to diagnose an alcohol problem but to exercise responsibility in dealing with performance or conduct problems, hold the employee accountable, refer to the practice policies and take appropriate disciplinary actions. This role is crucial to a safe and productive team.

**Questions? Call TDIC's Risk Management Advice Line at 800.733.0633.**

For use by the California Dental Association components, the Arizona, Hawaii, Nevada, New Jersey, North Dakota and Pennsylvania dental associations, the Alaska Dental Society and the Illinois State Dental Society. **If you reprint this article, please identify TDIC as the source.**

TDIC requires this article be used in its entirety. If you need to edit, expand or reduce this article, please call Taiba Solaiman beforehand at 800.733.0633, ext. 5360 or fax your suggested changes or additions to 877.423.7949.