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EMPLOYMENT LAW LETTER

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SEXUAL HARASSMENT

Lone sexual advance is enough to support harassment claim

by Tom Harper
The Law and Mediation Offices of G. Thomas Harper, LLC

If you thought you could ask once with no harm, you had better think again! In a case of first impression (i.e., the issue was considered for the first time) in Florida and the United States, the Florida 4th District Court of Appeals (DCA) in West Palm Beach ruled that a police dispatcher refusing a one-time proposition constituted "protected activity" under the Florida Civil Rights Act to support her claims of retaliation. The dispatcher won her case before a Palm Beach County jury, which awarded her back pay and $400,000 in compensatory damages.

Police were already there

Tara Luscavich was a police dispatcher for the Village of Tequesta Police Department. She went to a party one night at a police officer's house to celebrate the officer's job promotion. A number of officers were at the party, including Lieutenant Gerald Pitocchelli, who soon became the chief of the department when the then-current chief retired a few months later.

Luscavich testified that during the party, about eight people, including Pitocchelli, were sitting around a table. A male police officer "exposed himself" to the group, which "apparently he [did] a lot." Someone then passed around a dollar bill, and Luscavich grabbed it and stuffed it down her shirt. She exclaimed, "It's safe in here." Not wanting to let a dollar get away, Pitocchelli stood up from the table and said, "No, it's not!" He then put his hand down Luscavich's shirt and started to "feel her" under her bra.

Luscavich told the jury she was "shocked" and "embarrassed" by Pitocchelli's actions. Someone at the table asked how it felt "down there," and Luscavich uncomfortably replied that she didn't have much to feel. Pitocchelli responded, "What I felt felt pretty nice." Luscavich was embarrassed and left the table but not the party. (Surprisingly, the court did not find that the incident constituted "protected conduct" since Luscavich didn't say anything to show that Pitocchelli's conduct was "unwelcome.")

Farther than she wanted to go

Luscavich developed a headache and went to lie down in a back bedroom with a female police officer. Luscavich said she wanted to sleep, so the officer left. The lights were turned out, and Luscavich was lying on her stomach and thought she was alone. According to her testimony, she suddenly realized that someone else was in the room and felt someone rubbing her back. The person commented, "You have a nice back

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and such smooth skin," and she knew it was Pitocchelli. He offered to give her a back rub, but she declined and sat up on the side of the bed. Next, Pitocchelli told her that he had always been attracted to her and had "always wanted to make love to" her.

Luscavich testified that at that point, she told Pitocchelli:

> I said, listen, I know you're going through a hard time right now. You're separated from your wife. You're single. I understand that, but I am not. I am married. I have never cheated on my husband.

According to Luscavich, Pitocchelli then grabbed her hand and placed it on his crotch to show he was ready. She immediately left the room and went straight to a female officer, and they left the party.

Back at work

Luscavich testified that she noticed a change in Pitocchelli's demeanor toward her the next day at work. He was soon promoted to department chief. Luscavich's supervisor wanted to send her to a training course that would qualify her for other jobs in the department. Without reason, however, Pitocchelli turned down her request to attend the training.

Nine months after the party, Luscavich applied for a job assisting the department's evidence custodian. Two other employees applied for the position, but Luscavich's immediate supervisor told her that, in his opinion, she was the most qualified. The supervisor told the selection panel, including Pitocchelli, that Luscavich was the most qualified candidate. The supervisor was told that comments about Luscavich were "no longer needed." Months later, Luscavich was passed over for another position, and officers were reprimanded for talking to her while she was on dispatch duty.

Luscavich filed suit against the village. Her unlawful retaliation claim survived pretrial dismissal requests by the village, and the claim was decided by a Palm Beach County jury. The claim was filed under the Florida Civil Rights Act. Section 760.10(7) of the Act states:

> It is an unlawful employment practice for an employer, an employment agency, a joint labor-management committee, or a labor organization to discriminate against any person because that person has opposed any practice which is an unlawful employment practice under this section, or because that person has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this section.

To establish a *prima facie* (minimally sufficient) claim of retaliation under section 760.10(7), an employee must demonstrate that (1) she engaged in statutorily protected activity, (2) she suffered an adverse employment action, and (3) there is a causal relation between the two events.

After the jury ruled in Luscavich's favor, the village appealed to the DCA, arguing that her claim should have been dismissed before trial because she had refused a one-time sexual advance by communicating that she was married, announcing that she had never cheated on her husband, and leaving the bedroom. According to the village, given the location of the conduct, the isolated nature of the incident, and the absence of a connection to the police department, she couldn't establish that she had "opposed" the conduct under the Florida Civil Rights Act. The appeals court didn't buy the village's argument and found that her actions in response to Pitocchelli were sufficient to show her "opposition."

In its appeal, the village also claimed that "(1) the Chief's one-event sexual advances at a private party did not constitute an *unlawful employment practice;* and (2) the employee's declination of the Chief's sexual advances was not *protected activity* under the [Act] because it did not qualify as *opposition* and provided no notice to the Village." The appeals court broke those arguments into two subparts: (1) A one-event sexual advance doesn't constitute an unlawful employment practice and (2) a sexual advance at a private, non-work-sponsored party doesn't constitute an unlawful employment practice. In reaching its decision, the appeals court noted that there were no Florida state court opinions discussing either of those arguments. Indeed, the 4th DCA couldn't find federal court decisions that addressed those issues anywhere.

The appeals court looked to federal court cases for insight on whether a single incident of harassment could support a claim. The 4th DCA stated, "As the federal courts do, we give deference to the definition of 'sexual harassment' by the [Equal Employment Opportunity Commission (EEOC)]." The court noted that most sexual harassment cases involved multiple instances of unwelcome conduct. The appeals court noted, "We could find no federal appellate opinions explicitly opining that *one-event* sexual conduct cannot constitute sexual harassment or core facts for a retaliation claim under Title VII [of the Civil Rights Act of 1964]."

That said, the 4th DCA applied the rationale in other cases and held that cases that involved multiple instances of contact were broad enough that "one-event physical sexual contact" was sufficient to establish an unlawful employment practice in Florida. The court ruled that even a one-event instance could be "severe and pervasive" enough to meet federal courts' definition of "sexual harassment." The appeals court didn't agree with the village's arguments. The 4th DCA described the events:

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ASK ANDY

Guns at work: a refresher in the wake of horror

by Andy Rodman
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.

In the wake of the Marjory Stoneman Douglas High School shooting in Parkland, legislators at the state and federal levels continue to bicker over gun-control issues. Meanwhile, many argue that it's not only our schools that remain unsafe but also our workplaces.

Regarding workplace safety, now is a perfect time for a refresher on the "Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles Act of 2008," commonly known as the "Bring Your Gun to Work" law. Signed by Florida Governor Charlie Crist in 2008, the law—by its very terms—"is intended to codify the long-standing legislative policy of the state that individual citizens have a constitutional right to keep and bear arms."

Although a gun owner's right to possess a gun at a workplace in Florida isn't absolute, the 2008 Act focuses its restrictions on employers. Here are the nuts and bolts:

- An employer can't ask an employee, customer, or invitee, verbally or in writing, whether she possesses a gun inside her privately owned vehicle in the company's parking lot.
- An employer can't search a privately owned vehicle in its parking lot to ascertain the presence of a gun. Searches may be conducted only by law enforcement officers in accordance with due-process and constitutional protections.
- An employer can't take action against an employee, customer, or invitee based on verbal or written statements concerning the possession of a gun inside a privately owned vehicle in the company's parking lot.
- An employer may not condition employment on (1) the fact that an employee or prospective employee holds (or does not hold) a gun license or (2) an agreement by an employee or prospective employee that prohibits him from keeping a legal gun locked in his privately owned vehicle in the company's parking lot.
- An employer may not terminate the employment of or discriminate against an employee (or expel a customer or invitee) for exercising his right to keep and bear arms or for exercising his right to self-defense as long as his gun isn't exhibited on company property for any reason other than lawful defensive purposes.
- An employer may not prohibit or attempt to prevent an employee, customer, or invitee from entering its parking lot because he keeps a gun locked inside his privately owned vehicle.

Generally, although employees, customers, and invitees have fairly broad rights to keep legally owned guns locked inside their cars in a company's parking lot, they don't have the right to take guns inside your workplace except for self-defense. Most employers have a "no weapons" policy in their employee handbook.

It's important to include a carveout in the policy for rights provided by the "Bring Your Gun to Work" law. If an employer complies with the law, it can't be held civilly liable based on its actions or inactions.

The law may be enforced by the Florida attorney general on behalf of an aggrieved employee, customer, or invitee. The attorney general may seek monetary damages, injunctive relief, and civil penalties. An aggrieved employee, customer, or invitee also may pursue a civil action.

There's no employee threshold under the law. It applies to all companies with employees except for specifically excluded entities such as schools.

Before you take action against an employee based on her possession of a gun at work, consult with your employment counsel. Of course, if you fear immediate physical harm, never hesitate to call police.

Andy Rodman is a shareholder and director at the Miami office of Stearns Weaver Miller. If you have a question or issue you would like him to address, e-mail arodman@stearnsweaver.com or call 305-789-3255. Your identity will not be disclosed in any response. This column isn't intended to provide legal advice. Answers to personnel-related inquiries are highly fact-dependent and often vary state by state, so you should consult with employment law counsel before making personnel decisions. ✤

AGENCY ACTION

EEOC approves new strategic plan. The Equal Employment Opportunity Commission (EEOC) has announced the approval of its strategic plan for fiscal years 2018-2022. The agency said the plan serves as a framework for achieving its mission through the strategic application of its law enforcement authorities, preventing employment discrimination and promoting inclusive workplaces through education and outreach, and organizational excellence. Those objectives have associated performance measures detailing outcomes to be achieved during the four-year period the plan is in effect. The outcomes are designed to demonstrate the EEOC's progress in carrying out its mission in a time of shrinking resources and increasing demand for its services.

DOL announces recovery of nearly $16 million to retirement plans. The U.S. Department of Labor (DOL) in February announced a settlement agreement with U.S. Fiduciary Services and three of its subsidiaries that provides for payment of more than $7 million to 42 retirement plans that suffered losses as a result of investments in fictitious loans made by Florida-based First Farmers Financial LLC (FFF). The agreement and anticipated payments from a receivership estate case involving FFF are expected to compensate the retirement plans fully for approximately $16 million in losses. The DOL's Employee Benefits Security Administration (EBSA) said FFF created the fictitious loans and forged documents stating that the loans were guaranteed by the U.S. Department of Agriculture. After its investigations, the DOL entered into the settlement agreement with U.S. Fiduciary Services and the three subsidiaries, resolving its claims of Employee Retirement and Income Security Act (ERISA) violations. Representatives of the ERISA-covered retirement plans that are due to receive settlement proceeds were also parties to the settlement agreement.

NLRB issues new Bench Book. The National Labor Relations Board (NLRB) has announced that the Board's Judges Division has issued an updated Bench Book, which replaces an earlier version issued in November 2016. The Bench Book serves as an NLRB trial manual and is designed to provide NLRB judges with a reference guide during unfair labor practice (ULP) hearings. It also is a tool for trial practitioners before the Board because it sets forth NLRB precedent and other rulings and authorities on certain recurring procedural and evidentiary issues that may arise during a hearing. The basic sources that govern Board ULP hearings are the National Labor Relations Act (NRLA), the Administrative Procedure Act, the NLRB's Rules and Regulations and Statements of Procedure, and Board decisions. The Board also applies, so far as practicable, the Federal Rules of Evidence and frequently seeks guidance from the Federal Rules of Civil Procedure. ✤

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> The Chief not only groped the Employee's breast in front of others, he also sexually touched her by taking her hand and placing it on his [groin] . . . . We determine that it was for a jury to decide whether the Chief's sexual conduct constituted "[u]nwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature" within the EEOC guidelines and whether the conduct was "severe" enough to impose liability on the retaliation claim.

Private parties

The court also addressed the argument that harassment at a nonwork function wasn't actionable. For reasons similar to the one-event argument, the appeals court found that conduct that occurs away from sanctioned work functions is covered. Again, the 4th DCA noted that most federal cases deal with fact patterns involving verbal or physical sexual behavior by a supervisor at a jobsite or an off-premises work event. The court stated, "None of the federal opinions specifically address an argument about how the location or event context of the sexual behavior impacts the analysis." Looking at the facts in this case, however, the appeals court was satisfied that the fact that the party was not a sanctioned work event made no difference. Many police department employees were present at the party and observed the conduct around the table.

Surprise twist

Despite finding that one incident of harassment was enough and that conduct at a private party was actionable, in a surprising twist at the end of the decision, the 4th DCA granted a new trial to the village. Why? On appeal, the village also claimed that the trial court made a mistake in the language given to the jury to use to decide whether Luscavich had proven her claim. The instruction given by the trial court allowed her to win by showing that she declined the chief's advance and that her declination was not "completely unrelated" to the adverse employment actions she encountered. Because the U.S. Supreme Court changed the causation standard in Title VII retaliation claims in 2013 to "but-for causation," the court's instructions were wrong and required a new trial on Luscavich's retaliation claim. *Village of Tequesta v. Tara Luscavich*, Case No. 4D16-2432 (Fla. 4th DCA, March 7, 2018).

Takeaway

Pitocchelli is no longer chief. Regardless, this decision clarifies two questions employers have about sexual harassment: (1) Is a single incident enough to be severe and pervasive, and (2) can harassment victims use incidents that occur at non-work-related meetings? The court answered both questions in the affirmative. Conducting supervisory training and maintaining a culture of respect are keys to avoiding problems.

You may reach Tom Harper at tom@employmentlawflorida.com. ✤

RELIGIOUS ACCOMMODATIONS

Employer not required to approve employee's request not to work Sabbath

by Lisa Berg
Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.

Title VII requires employers to reasonably accommodate employees' religious beliefs, practices, and observances unless an undue hardship would result. The U.S. Supreme Court has defined "undue hardship" as "more than de minimis" (minimal) cost or disruption to an employer's business.

One of the most commonly requested religious accommodations under Title VII is an employee asking not to work certain days of the week. Employers must consider adjusting attendance requirements to accommodate employees' religious practices or beliefs unless doing so creates an undue hardship. However, a new decision from the U.S. 11th Circuit Court of Appeals (whose rulings apply to all Florida employers) demonstrates that employers don't have to guarantee that employees will never be scheduled to work on certain days. As long as an employer has offered a reasonable accommodation, it has satisfied its burden, even if the accommodation wasn't the one the employee was seeking.

Facts

Darrell Patterson is a Seventh-Day Adventist, and his religious beliefs prohibit him from working during his Sabbath—sundown on Friday to sundown on Saturday. In October 2005, he was hired as a customer care representative in Walgreens' call center, which operated seven days a week. He requested not to work on his Sabbath, and Walgreens initially accommodated his request.

Patterson was promoted several times and ultimately became a training instructor. To work around his Sabbath observance, his supervisor agreed to schedule regular training classes between Sunday and Thursday, but sometimes emergency trainings were required on Friday nights or Saturdays. Walgreens further accommodated Patterson by allowing him to swap shifts with other trainers when he was assigned a class on the Sabbath. When he wasn't able to find a replacement, he was disciplined.

On August 19, 2011, Patterson was informed that he needed to conduct an emergency training session the next day, a Saturday. He asked another trainer to cover for him, but she had to care for her children and was unavailable. Although several nontrainer employees could have conducted the training session, Patterson didn't attempt to contact any of them. Instead, he left messages for his supervisor advising that he couldn't conduct the Saturday training session because he would be observing his Sabbath.

The following week, Patterson met with an HR representative to discuss his absence, and the HR representative suggested that he return to his previous position as a customer care representative or look for another job at Walgreens that had a larger pool from which he could more easily find employees to switch schedules with him when needed. Patterson refused to do so unless Walgreens would guarantee that he wouldn't have to work on the Sabbath. Walgreens denied his accommodation request because he was one of only two trainers at the Orlando facility and the other trainer would be leaving the company soon.

Walgreens ultimately terminated Patterson because of his refusal to work on the Sabbath and his refusal to look for another position with more potential availability. The company concluded that it couldn't rely on him if there was an urgent business need that required emergency training on a Friday night or Saturday.

In response, Patterson sued Walgreens, claiming it failed to reasonably accommodate his religious beliefs under Title VII. The district court granted summary judgment (dismissal without a trial) in favor of Walgreens, and he appealed the decision to the 11th Circuit.

Reasonable accommodation burden satisfied

The 11th Circuit reached the same conclusion, affirming the dismissal of Patterson's claim. The court found:

> An employer may be able to satisfy its obligations involving an employee's Sabbath observance by allowing the employee to swap shifts with other employees, or by encouraging the employee to obtain other employment within the company that will make it easier for the employee to swap shifts and offering to help him find another position.

However, the court stated, "Walgreens was not required to ensure that Patterson was able to swap his shift, nor was it required to order another employee to work in his place." Patterson's inability to find other trainers willing to swap shifts didn't make the accommodation ineffective.

In addition, the court found that Walgreens' offer to allow Patterson to return to his former position as a customer care representative was a reasonable accommodation and that he "had a duty to make a good-faith attempt to accommodate his religious needs through the means offered by Walgreens." The 11th Circuit concluded that under Title VII, employers are required to provide an effective accommodation, not a choice of accommodations or the accommodation preferred by an employee. *Patterson v. Walgreen Co.,* No. 16-16923, 2018 WL 1224391 (11th Cir., Mar. 9, 2018).

Employer takeaway

Employers face a delicate balance when employees' religious beliefs interfere with their work obligations. The *Patterson* decision is helpful for Florida employers because it demonstrates that their duty to reasonably accommodate employees' observance of the Sabbath does have limits.

Walgreens had a strong case because it had a long history of accommodating Patterson's Sabbath when it was possible. The company adjusted his regular training schedule and allowed him to swap shifts when possible. It also offered him the opportunity to transfer to another position. Every situation is unique, however. Therefore, proceed with caution and confer with experienced legal counsel if you are contemplating terminating an employee who refuses to work based on a Sabbath observance.

You may contact Lisa Berg at lberg@stearnsweaver.com. ✤

WAGE AND HOUR LAW

WHD reinstates Bush-era opinion letters

The U.S. Department of Labor's (DOL) Wage and Hour Division (WHD) recently reissued 17 opinion letters that had been withdrawn by the Obama administration for "further review" but never ruled upon. The letters had been issued mere days before former President George W. Bush left office in January 2009.

Most of the "new" opinion letters provide additional guidance regarding application of various principles under the Fair Labor Standards Act (FLSA).

Some background

You may recall that for many years, the DOL frequently provided guidance on narrow regulatory issues by publishing opinion letters in which it responded to factual scenarios submitted by employers. For example, employers frequently asked for opinions from the WHD regarding whether particular categories of employees were entitled to overtime, leave under the Family and Medical Leave Act (FMLA), and other issues.

Starting in 2009, the Obama administration discontinued the practice of issuing opinion letters and replaced them with "administrator interpretations," which provide informal guidance on broader and more general topics and don't respond to specific factual situations. During Obama's eight years in office, the WHD issued only 11 administrator interpretations.

Topics addressed

The opinion letters can be broken down into three categories:

- Whether particular types of employees are exempt from overtime requirements;
- What types of compensation need to be included in calculating the amount of overtime owed; and
- What activities qualify as "work time" for which compensation must be paid.

All of the opinion letters provide valuable insight and are well worth a read. But in the meantime, let's take a quick look at the topics addressed and the conclusions reached by the WHD.

Exempt status

Most of the opinion letters consider whether specific types of employees are exempt from minimum wage and overtime requirements, and most were found to be exempt. Categories of employees that *were found to meet an exemption* include:

- Plumbing sales/service techs (exemption for retail or service establishments);
- Commercial and residential construction supervisors/managers (administrative exemption);
- "Adjunct" or community coaches (teacher exemption);
- Client service managers at insurance companies (administrative exemption);
- Various medical professionals, coordinators, and consultants (administrative exemption);
- Some (but not all) fraud/theft analysts (administrative exemption); and
- Product demonstration coordinators (administrative exemption).

On the other hand, helicopter pilots (and pilots in general) don't meet the requirements of any exemption. However, the WHD has taken a "position of nonenforcement" under the FLSA with regard to most pilots.

Calculating overtime

The remaining opinion letters primarily examine two common concerns about how to properly compute an employee's overtime: (1) what hours need to be compensated and (2) what types of compensation need to be included in calculating the regular rate of pay and, by extension, the overtime rate. The most interesting of the remaining letters reached the following conclusions:

- Ambulance workers' activities during their on-call time weren't so restricted as to make such time compensable.
- Firefighters who wanted to volunteer to perform extra duties couldn't do so without being paid for the extra time because the volunteer work was too similar to the paid duties.

- Under the salary-basis test, if employees work a different number of hours from one day to the next, their compensation may be reduced by the number of hours missed as long as they are absent for a full day.
- Two different opinion letters examined whether bonuses needed to be included in calculating the regular rate of pay (one concluded they did; the other concluded they didn't).

Finally, it's too complicated to summarize easily, but one of the opinion letters provided a detailed discussion of how to calculate the regular rate for certain emergency response workers.

What's next?

The Trump DOL appears to have reissued the short-lived Bush-era opinion letters in response to employer requests. There was no accompanying announcement regarding the agency's intent to consider new requests for opinion letters or issue administrator interpretations going forward. It will be interesting to see whether opinion letters once again become a common practice, as they have historically provided valuable insight into the WHD's perspective on a variety of topics that aren't directly answered by the regulations.

The full text of the new opinion letters can be found at www.dol.gov/whd/opinion/flsa.htm. ✤

DRUG USE

Opioids in your workplace? Tips for prevention and response

These days, it seems impossible to tune into the news without hearing about the opioid crisis. In addition to tragic reports of overdose deaths and heartbreaking addiction stories, most of the news focuses on the rapid rise of opioid use over the past 10 to 15 years and what—if anything—can be done to turn the tide.

The statistics are alarming indeed. The number of drug overdose deaths in the United States nearly doubled between 2006 and 2016. But death isn't the only risk. According to the Centers for Disease Control and Prevention (CDC), more than 1,000 people per day seek emergency room treatment for misusing prescription opioids, and more than two million suffer from addiction to prescription pain medication.

For most employers, there are any number of legitimate business reasons for you to take a proactive approach to preventing and responding to addiction in your workplace. They could include anything from meeting your obligations to keep employees (and others) safe to the desire to reduce absenteeism and optimize productivity and performance.

Here are just a few ideas to get you started.

Assess the risks in your workplace

Some workplaces are at higher risk for opioid addiction than others. Conduct a frank appraisal of your risks, which may include geographic location, the demographics of your workforce (white men between the ages of 25 and 54 years are at the highest risk), and the nature of work performed.

This assessment isn't so much about determining whether there are risks (there are) but the degree and nature of those risks.

Develop drug-use policy

Historically, many employers have forgone a drug policy for a number of reasons. For example, maybe they thought they were too small to need a drug policy or their employees didn't do the type of work where drug use could present safety concerns.

While those are legitimate considerations when deciding *how strict* you want your drug policy to be, they don't mean you shouldn't have such a policy at all. At a minimum, most employers should have a policy that:

- Prohibits employees from being under the influence of drugs (and/or alcohol) at work;
- Explains any process you may have to detect prohibited drug use (such as random testing, screening after an accident or based on a reasonable suspicion of drug use, and so on);
- Explains any employee obligations to notify you that they are using a drug or medication that could pose a safety risk; and
- Spells out the potential ramifications of any violations of the policy.

Investigate treatment controls

Another proactive approach is to become familiar with any obstacles to opioid addiction that may be built into your group health policy. For example, most policies are implementing tighter controls for potentially addictive pain medications, including:

- Step treatment (requiring a patient to try nonaddictive or less addictive pain medications first);
- Dosage limits (as to milligrams, number of pills provided in a single prescription, number of refills allowed, and other similar restrictions); and
- Preauthorization requirements.

While these types of controls aren't uncommon, there is still significant variance from one carrier to the next. In addition, if you are self-insured, you have more leeway to develop an even more creative plan designed to prevent and respond to opioid abuses.

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In any event, it's good to know what types of safeguards are already in place and do some digging on what other options or programs the carriers (or third-party administrators or pharmacy benefits managers, if you're self-insured) may be developing. Depending on the risk presented by your particular employee population, it may even be worthwhile to take this into consideration when choosing your health plan.

Don't overlook employee education

Finally, don't underestimate the importance of simple communication. The tragedy of the current crisis is that so many addicts started out just like you and me, just looking for a solution to a health problem. Most people who become addicted weren't particularly irresponsible in their use of prescribed medications. They simply needed something to control pain, and it got out of their control.

That's why education is so important. Again, depending on the level of risk in your organization, you may want to provide training (or at least educational materials) about:

- The importance of adhering strictly to the prescription when using pain medications;
- The medications that present the greatest risk of addiction;
- The dangers of overutilization;
- Responsible storage and disposal of medications; and
- Any other resources you offer that could help, such as an employee assistance program, health coaching/disease management, and other similar programs.

Final words

If you haven't had to deal with opioid addiction in your workplace, it's tempting to think it's a problem you don't need to worry about. That type of thinking is shortsighted at best. The truth is, employers that are willing to do so can make a positive impact on the incidence of and damage done by opioid use and addiction. The fact that doing so can also have a positive impact on your bottom line makes it a win-win for you and your employees. ✤

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