

Two Important Employment Documents – Job Descriptions and Personnel Evaluations

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As most veterinary practices are well aware, clear and effective personnel documentation is extremely important both to communicate effectively with employees and to defend against potential employment claims. Two of the most important types of personnel documents are job descriptions and performance evaluations. This article will briefly review both of these types of documentation.

All veterinary practices should create, review and regularly revise a job description for every position in the organization – from your Receptionist to the Veterinarians. It is imperative that job descriptions, at minimum, identify the position's specific essential functions of the job. Job descriptions containing the essential functions can be beneficial to every stage of the employment relationship from hiring to firing. For example, a well written job description can help facilitate an employer's inquiry about an applicant's ability to perform both marginal and essential duties. They can likewise be used to explain to an employee the basis for a termination when job duties are not being met. Indeed, well written and updated job descriptions can be important evidence in successfully defending against discrimination claims, exempt status challenge claims under federal and state law, and workers' compensation claims.

The Americans with Disabilities Act ("ADA") prohibits direct inquiries about an applicant's medical background until an employer extends the applicant a bona fide conditional offer of employment. However, the ADA expressly provides that in determining the essential functions of a job, some deference will be given to job descriptions if they are prepared by the employer prior to applicant interviews. As such, job descriptions must be prepared prior to filling a position, not after.

The job description should be carefully reviewed by management, prior to establishing it is a final document. Ideally, someone with human resources experience should review job descriptions in concert with management and supervisors.

Also, it is extremely important that job descriptions be reviewed for possible updating at least once each year and/or when the employer knows that a particular position has been modified in some manner. Outdated job descriptions can create practical and legal difficulties for an employer. The key point is that when job duties change so must job descriptions.

Finally, secure from the employee a signature and date of signature on the job description at the time of hire, each time the job description changes and/or when the employee is assigned to a new position.

In regard to performance evaluations, simply put, a veterinary practice will suffer if honest and accurate performance evaluations are not performed on at least an annual basis. Performance evaluations are not just optional, they are essential. In order to make appropriate decisions about pay increases, promotions, demotions and even terminations, performance evaluations must be conducted on a regular (at least annual) basis and most importantly must be an accurate summary of performance.

Businesses can be harmed by "sugar-coated" performance evaluations. Oftentimes, an evaluation is prepared in a manner that avoids confrontation with the problematic employee. Such misleading evaluations not only will hurt the business by allowing "under performers" to continue in their positions, but such documentation can also be very difficult to explain if an employment law claim arises. For example, if a clinic's defense rests on poor performance by the employee, but the evaluation was "sugar-coated" in regard to the claimant's performance, it will be exceedingly difficult to explain this discrepancy to a judge, jury, investigator or arbitrator.

Three key points of emphasis regarding performance evaluations are:

- It is extremely important to develop a formal, structured evaluation process that all employees understand.
- It is recommended that the performance evaluation include both an objective (numerical scale) as well as a subjective section for evaluating the employee's strengths and/or weaknesses.
- The focus of a performance evaluation is always to improve the employee's work performance, not just pointing out weaknesses in the employee's performance.

Finally, again secure the employee's signature and date of signature on each performance evaluation. If the employee refuses to sign, write on the document "Presented to Joe Smith on December 20, 2012, but refused to sign." The individual presenting the performance evaluation should also sign and date it.

