

Workplace Policies and Employee Handbooks

By Samson Elsbernd, Esq.

All companies have workplace policies and procedures. Sometimes they are written and other times they are not. Some are required and others are voluntary. The extent to which veterinary practices have adopted written policies and procedures often depends upon the value to the practice of implementing the policies and procedures.

A practice's adopted policies can limit its ability to act. This is an important reason that your practice should ensure that the voluntary policies that it adopts make sense. You cannot foresee every circumstance, so your policies should provide you with flexibility in addressing whatever comes your way.

Workplace Policies, Handbooks, and Personnel Manuals

Written workplace policies are helpful because they inform employees of the practice's policies and procedures on different subjects. The practice can refer employees to the policies and procedures for questions, and the employees receive consistent information about the subjects addressed in the policies.

Whether a practice has a loose collection of individual workplace policies or an employee handbook with many workplace policies on different subjects, depends upon the size of the practice. As practices grow, the value of written policies increases.

Handbooks are more common for companies with at least 20 to 30 employees. With a staff this size, a practice is more likely to have multiple people enforcing policies and procedures, maybe even at different practice locations. Converting historical practice into written policies promotes consistency throughout the practice so that similarly situated employees will be treated similarly.

Workplace policies create standards applicable to the workforce or divisions within it as a whole, and address employee rights, duties, and obligations with respect to the practice. For this reason, practices should not adopt new policies in response to non-recurring workplace issues affecting a small number of employees. Those issues are better dealt with on an individual basis.

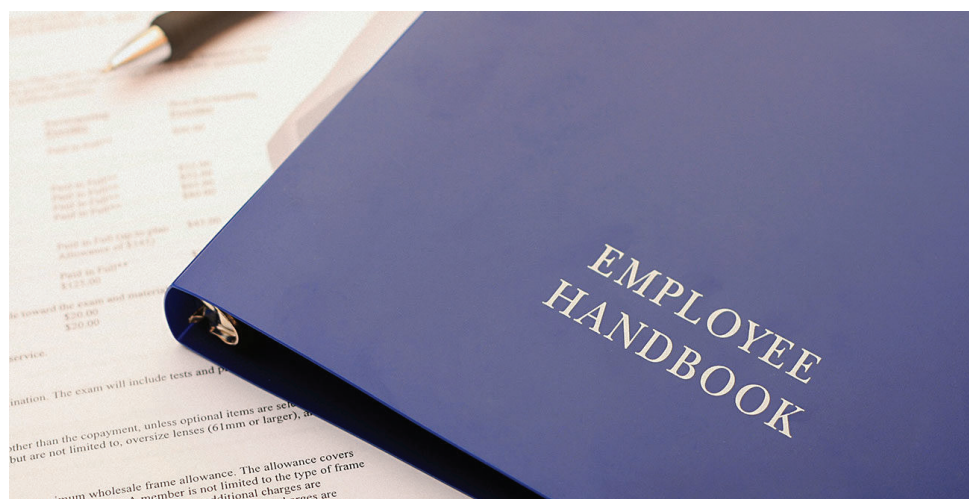
Personnel policies are generally reserved for supervisory employees. Personnel policies and personnel policy manuals assist supervisors in applying the practice's workplace policies. They contain more detailed statements of the policies and procedures than described in the employee handbook. Practices without employee handbooks are unlikely to have personnel policies and even practices with employee handbooks may not have personnel policies. Personnel policies are more common in large businesses.

Different Sources of Workplace Policies

Most workplace policies are voluntary. Employers generally decide which policies are right for their practice and adopt them. There is no legal requirement to have an employee handbook but some workplace policies may be required by law such as a harassment, discrimination, and retaliation prevention policy. Policies may be required if a practice chooses to discuss certain topics in its employee handbook (e.g., state and federal leave policies). Sometimes, practices elect to include a subject in their handbook so that they do not have to distribute information about a particular subject on an annual basis (e.g., California reasonable accommodation, transfer, and pregnancy disability leave).

In addition to legally imposed policies, workplace policies may be required as part of a contractual obligation, such as a drug-free workplace policy for certain federal contracts.

Otherwise, absent a legal or contractual requirement, the policies that a private, non-unionized practice implements are largely up to the practice. They are the practice's



policies and should reflect the practice's culture and workplace. As a result, the practice's policies may be more generous than the law. For example, there is no legal requirement to provide paid time off/vacation to employees in California, yet, many practices do. Similarly, bullying is not illegal *per se* in California, but practices do not have to tolerate bullying in the workplace. A common reason that practices may adopt policies that are stricter than the law is so that they can address issues before they become violations of the law, and also to provide a workplace where employees want to come to work day after day.

Common Workplace Policies

Besides a harassment, discrimination, and retaliation prevention policy, California employers frequently have a paid sick leave policy, unless employees simply accrue paid sick leave in accordance with law. Voluntary leaves, such as paid time off/vacation and bereavement, and holidays may also be addressed in a written policy.

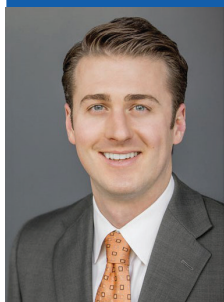
Drug policies should address the status of marijuana, including whether it is a prohibited drug under the practice's policy. Smoking policies should address electronic and vapor products (e.g., e-cigarettes) and their treatment under any smoking policy.

Confidential information is another common policy since veterinarians have a duty of confidentiality concerning the animals, clients, and care provided to the animals. Confidential information policies also commonly address protection of the practice's confidential information, such as customer lists.

Update Workplace Policies Periodically

Practices set themselves up for legal claims, such as discrimination, when they violate their own policies. Why? Because the policies outlined a specific protocol to follow but the practice acted differently. Disgruntled employees frequently allege the deviance from policy is evidence that they were treated differently because of their membership in a protected class (e.g., race, gender, sex, sexual orientation). For this reason, it is important for a practice to periodically review its policies to ensure that they still align with how they currently do business. If not, the practice should revise its policies and provide as much advance notice as possible before any changes go into effect.

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Samson Elsbernd, Esq. is a partner with Wilke, Fleury, Hoffelt, Gould & Birney, LLP. With an emphasis in employment law, Mr. Elsbernd enjoys helping his clients understand the risks that they may face, minimizing those risks, thereby enabling them to pursue their goals safely. He represents employers and management and is a member of the Executive Committee for the Labor and Employment Law section of the California Lawyers Association (formerly part of the State Bar of California).



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