



HOW TO MITIGATE
YOUR ASC'S TOP 5
EMPLOYMENT RISKS



Med+HQ

How to Mitigate Your Top 5 Employment Risks

High-risk human resource (HR) events can be costly, in terms of a company's culture and its bottom-line. And if handled improperly, they can have a significant impact on employee morale, brand perception, and your ASC's productivity. They can cost thousands of dollars and cause upward pressure on your insurance rates. But with advanced planning, surgery centers can mitigate these risks and minimize their impact.

Why Employee Management Matters More than Ever

Operating an ASC successfully in today's healthcare environment requires supreme efficiency: The dramatic rate of change in healthcare makes it essential that leaders stay focused on delivering better care for less, and effective employee management plays a critical role. The healthcare industry relies on a highly skilled, high-wage, and highly in-demand workforce to make life-or-death decisions every day.

"In an environment of rapid change, ASC leaders are already stretched thin," says Tom Jacobs, Co-Founder and Chief Executive Officer of MedHQ, the leading provider of human resources staffing and onsite management services focused specifically on the ASC market. "This topic matters for ASCs and out-patient healthcare businesses because HR risks divert the attention of senior management, distracting them from their goals to improve the quality of care, and improve business results."

About MedHQ

MedHQ is a management consulting specialist with core competencies in the management of human resources and delivery of client accounting services. Core solutions include long-term staffing and onsite management services; oversight of the bookkeeping and accounting function, including compilation of financial statements, tax returns, and payroll solutions; and medical staff services and consulting, including administration of provider credentialing, facility privileging and third-party payor enrollment.





Managing Employment Risk Well

Jacobs outlines three overall ways ASCs can manage employment risks like an expert:

- Adopt Preventive Processes and Practices
- Apply Strategic Resources
- Build a Stronger Culture

“When it comes to preventive practices, it’s all about being proactive vs reactive,” says Rita Hernandez-Figi, Vice President, Human Resource Services at MedHQ. “An experienced HR team knows how to craft a job description, recruit the right candidates, and implement an interview process that brings candidates with the best skills and fit to the top.”

Strategic use of outside resources, such as a healthcare staffing company, helps ASCs create a more engaging work environment through better management of the people side of the business, and improves their ability to focus on factors that drive business success.

Says Jacobs: “Outside expertise is a strategic way to address HR risks. A leader’s attention is not diverted, because they know the issues are being expertly addressed. And a full, experienced HR team can coach ASC leadership to build up culture, reducing the likelihood of a work environment that fosters negative behaviors.”

Finally, a strong culture starts with the team at the top.

“Leaders must all be on the same page and articulate their vision and values to the rest of the organization,” says Hernandez-Figi. “In an ASC environment, alignment between the board, chief administrator, and director of nursing is crucial. If they present a unified front on employment best practices and processes, the chances of the ASC being run well is so much higher – they’re modeling for everyone else.”

Top 5 Areas of Employment Risks for ASCs

Since 2011, MedHQ has tracked a “Top 10” of employment risk management issues, assigning a monetary risk factor to each event (see “factored risk” table below). Today, the company has hundreds of such events in a database, and helps clients gain the benefit of that history. In addition, MedHQ recently surveyed the ASC industry on which employment-related risk events:

- are toughest to manage?
- cost your ASC the most?
- have the biggest impact on the ASC’s risk profile?

Combining database evidence with responses received via the industry survey, the company identified the top 5 most difficult employment risk events:

- Family Medical Leave Act/American’s with Disabilities Act
- Workers’ Compensation Claims
- Involuntary Termination
- Sexual Harassment
- General Harassment and Hostile Work Environment

Hernandez-Figi believes the five issues rose to the top due to their significant impact on the bottom line, if handled improperly. Each of them can:

- Be distracting to senior management, removing focus from matters that develop and grow the business
- Damage the organizational culture
- Impact insurance rates for liability, workers’ compensation
- Incur settlement costs and increase softer costs.

Let’s explore these issues in terms of the action steps ASCs can take to mitigate their risk.

Risk Areas	Cost of Risk		
	Low	Medium	High
FMLA, ADA, etc	\$12,500	\$25,000	\$50,000
Work Comp	\$5,000	\$10,000	\$20,000
Involuntary Termination	\$6,250	\$12,500	\$25,000
Sexual Harassment	\$25,000	\$50,000	\$100,000
Hostile Work Environment	\$25,000	\$50,000	\$100,000



Tackling Regulatory Risks

Regulatory requirements like the Family Medical Leave Act (FMLA) and Americans with Disabilities Act (ADA), along with worker compensation laws, have been put in place to protect both the employee and the organization by establishing protocols for the proper handling of specific scenarios.

“They give people an opportunity to get well and move forward as contributing members of the organization,” Hernandez-Figi explains. “For an ASC where most roles require very specific skills, the key to mitigating risks associated with these regulations lies in how well we educate employees in advance, anticipate, and communicate; how we accommodate affected employees; and how we help them return to work.”

Educate, Anticipate, & Communicate

These action steps start with a well-written job description, a baseline and critically important element of managing the interaction between FMLA and ADA.

“The ‘essential functions’ portion of the job description must be properly written,” Hernandez-Figi explains. “It can save a lot of misunderstanding and goes a long way toward supporting proper decision-making. That portion of the job description should get to the heart of the requirements of the position.”

Accommodate?

With a specific job description in place, amendments may be possible as part of an FMLA/ADA discussion, but there will be some functions that are non-negotiable. Hernandez-Figi says fostering a culture where employees feel comfortable sharing information early allows more opportunity for proactive consideration. She offers two examples:

"If a receptionist's vision is failing, there are accommodations that are reasonable, including larger screens and adaptive devices. But in a nursing position that requires the ability to lift a patient as an essential part of the job, there simply may not be a reasonable accommodation if that can't be performed," she says. "In both instances, if the essential function is well-documented in the job description prior to any issue, it is less likely to become a topic of dispute down the road."

Getting ahead of these issues is especially important in an ASC environment where the focus is on a limited set of surgery types and the expectation of the business model is to be a fast paced, very efficient operation. "In many circumstances, the conversations come down to the key questions we need to answer to know whether accommodation would place too much demand on the business," Jacobs asserts.

Return to Work

Ongoing communications and clear protocols also are essential for managing employees' return to work following FMLA/ADA issues. Sometimes an employee can return to work on modified duty, short term.

"What are those essential functions during that period of modified duty? What can someone come back and do immediately?" asks Jacobs. "Those are the short-term questions. Longer term, managers need to determine if the employee will reassume all essential functions, or if the structure of the position can be changed. The essential functions of the position must still be done by someone in the organization."

Prior to resolving these, Hernandez-Figi recommends ASC managers thoroughly understand documentation about medical limitations. "Don't assume," she warns. "Make sure the documentation and evaluation from the doctor makes it clear whether the employee can perform essential job functions, or if accommodations would be necessary. Then have the conversation with the employee about what they can and cannot do."

Based on the specific circumstances of the ASC, it may be reasonable to offer a part time role, with some duties picked up by others, or that simply may not work. HR professionals often can be very helpful throughout this exploration, having seen multiple scenarios in their experience.





Finally, Jacobs and Hernandez-Figi underscore the importance of managing situations well when an employee is reaching the end of the 12-week, FMLA-allowed leave and the need for an iterative process with the employee. They suggest that the point where FMLA and ADA connect is frequently where mistakes are made, putting ASCs at risk for claims.

The bottom-line? Managing regulatory requirements well to mitigate risks can result in significant savings for an ASC in terms of lower costs of legal fees and severance, as well as minimized disruption in the work flow and efficiency of the center.

Diffusing the Impact of Involuntary Departures

Speaking of severance costs, mitigating risks associated with involuntary departures is another way expert HR management can deliver savings to an ASC. Research suggests a single termination, poorly managed, can cost \$80,000 - \$125,000 in legal fees and severance, compared to costs of just \$5,000 - \$10,000 when managed according to best practices. That said, prevention is often the best “remedy.”

“Yes, we need to handle terminations professionally, but it’s better to avoid them if possible with a focus on career pathing for employees, preparing them for process changes, addressing issues early. It’s about training and easing the transitions that otherwise can result in the need for involuntary termination,” says Hernandez-Figi.

Preventive actions that help companies avoid involuntary terminations include:

- Effective recruiting and hiring to ensure “best fit” employees in each job
- Thorough communication about job responsibility/process/method changes
- Transition training, conversations when organizational change occurs
- On-the-job coaching, career counseling
- Planning ahead to minimize terminations’ impact on others
- Proactive, professional termination action when warranted

“Declining behavior can be triggered by a variety of different root causes,” says Hernandez-Figi, “a new process, new method, new supervisor, or a change in the employee’s life outside of work. Have the conversations. Let them know you’ve noticed the change. Find out why it is happening, explore possible options, address the behavior early. And help people exit the organization when it’s time. If given the opportunity to improve, but they chose not to, sometimes it’s best to let them go before they poison the culture around them.”

Jacobs acknowledges it isn’t always easy to act, especially when the employee is critical to the ASC’s operations – a nurse with a skill that may be hard to replace, or a scheduler whose role is essential every moment. “But as an advantage of handling these situations well, remaining employees will see that you’re interested in their wellbeing and the success of the business and will respect you for your willingness to address hard issues. In addition, ongoing recruiting and cross-training to ensure availability of a backup for those critical roles will make timely action easier, he says.

Despite an organization’s best efforts, there will be occasions when an involuntary termination is the right action. And, handling the situation right is key to managing costs. Jacobs recommends a “progressive discipline” path, including verbal and written notice, then suspension and/or termination.

He adds: “These issues must be acted upon quickly. A management technique I find especially useful is stopping the employee just after the moment of the negative behavior and pulling them aside to privately say ‘this is the behavior I’m talking about.’ Many times, people are completely unaware either that they are doing negative things or that others are reacting negatively. If it’s not brought to their attention in the moment, they may never realize what needs correction and why.”

Adopting HR best practices for managing involuntary terminations helps keep negative behaviors from impacting the organization. One final step: planning for the eventuality that someone else will have to pick up that workload when a termination is likely.





“I encourage managers to have a pipeline of candidates,” says Jacobs. “And know, based on career goals, if there are current staff ready to step up and take on additional responsibilities. Also, immediately following termination of an employee, it’s very important to quickly inform the remaining staff that the person is no longer employed, while sharing your plan and what you will need from them. When you make it clear that you have a plan in place, it stops the negative noise immediately.”

Creating a “Kinder, Safer” Culture for All

When it comes to mitigating risks associated with sexual harassment, general harassment, and a hostile work environment, “top down” is a must. Jacobs and Hernandez-Figi urge ASC leaders to adopt and enforce clear policies, model the behaviors they want to see, and create a culture of zero tolerance with consistent training and communications to reinforce the standards and behaviors they expect from the organization.

Specifically, several steps proactively address risks associated with negative interpersonal behaviors that affect the work environment:

- Online and in-person employee training to preempt improper behaviors
- Monitoring employee reactions and attitudes during training
- Continuing communications to reinforce positive behaviors
- Programs to strengthen culture
- Executives that emphasize and model risk-free behaviors
- Zero tolerance policies

“It is important to talk about these issues, the behaviors you expect, and those you won’t tolerate,” says Hernandez-Figi. “Training, yes. But make it a part of the conversation on a regular basis as well. Pull it through into every action.”

Encouraging employees to speak up if they're uncomfortable about something and bringing the issues to the attention of your HR experts should be a part of an ASC's culture, since hostile work environments cost ASCs an average of \$65,000 per year. Especially in these touchy areas, HR can help guide the proper discussions and facilitate conflict resolution.

While MedHQ data suggests sexual harassment has not been a significant problem for the ASC industry, it is increasingly discussed in the media, underscoring the need for leaders to give it proper attention, along with the conditions that can foster general harassment or a hostile work environment.

"What we often see is it's about how we treat each other as human beings," says Hernandez-Figi. "What is respectful behavior in the workplace? With sexual harassment, you typically have a quid pro quo – something about a person's employment is dependent on an inappropriate demand or request. But another aspect that shouldn't be overlooked is whether you assign employees to different functions and levels of responsibility simply because of their gender. This can also be construed as sexual harassment."

Sometimes it's not sexual harassment that creates a problem, but harassment in general is the issue around which ASCs experience missteps. There are many ways centers can provide managers and employees with information and reminders that help create and maintain awareness of appropriate versus inappropriate behavior.

"One key is to encourage employees and managers to always take the time to speak respectfully," says Jacobs. "And if you realize that somebody who is taken aback by what you may have said or done, take a moment immediately to clarify the situation with the individual. Second, if someone has made a comment to you about being harassed, it is vitally important to include Human Resources in that conversation for guidance on appropriate next steps."





Written rules also apply: The employee handbook should lay out the protocols, process, and procedures to be followed in the event of a harassment claim. One common requirement is never to promise confidentiality regarding a harassment discussion, because HR involvement may ultimately be required. Every employee has a responsibility to report and to act.

That's not to say discretion isn't in order. "Sometimes employees are looking for guidance on how to handle a situation on their own, and HR can be a big help with that," explains Hernandez-Figi. "Once involved, HR can follow up to ask 'How is it going? Are things better?' If things are not better, HR can help that employee get additional guidance. And if HR can't resolve the issue, we'll bring in appropriate people and resources to help."

Another way to mitigate the potential for harassment is to strengthen the organization's culture by promoting behaviors that support shared values." Jacobs outlines key efforts to support a positive surgery center culture and help inoculate the ASC against harassment or hostile work environment within the workplace:

- Ongoing conversations with staff, as well as management, about shared values and beliefs
- Clear direction on how people are expected to behave, not heavy-handed, but clear
- Positive recognition to people demonstrating expressed and explicit company values
- Key desired behaviors modeled by leaders and managers

Conclusion

According to protocol outlined by the Society for Human Resource Management (SHRM): “Business risk is inevitable.” As much as ASC leaders would like to eliminate all risk for their organizations, it’s impossible to do. And as caretakers of one of the ASCs’ most valuable assets – its people – management, supervisors, and HR specialists have an important role to play in helping balance and mitigate those risks.

To succeed in today’s rapidly changing healthcare industry, ASCs need to leverage an expert HR skill set to mitigate risks by aligning HR best practices to business strategy and integrating competent HR execution into every day operations.

“ASC and hospital CEOs agree that as a strategic outside resource, management services firms, PEOs and other firms that have a core competency in human resources management can be a much more focused and efficient way to deliver HR services,” says Jacobs. “And they need every efficiency they can find to succeed in today’s dynamic healthcare market. There is a growing recognition that just as there are specialties and subspecialties in healthcare, the same is true in management – and HR is one such specialty.”



For more information on how MedHQ can help your
ASC mitigate employment risks,
contact MedHQ.

MEDHQ.NET | INFO@MEDHQ.NET | 708-492-0519