

Chapter 8

Age and Physical and Mental Health

People seem to forget that what is unwise to discuss at a dinner party is even more unwise to discuss in the workplace. The incidents in this chapter primarily involve talking about such delicate topics as health and illness, both physical and mental, as well as aging. The challenging issues presented often leave employers with little choice other than to take action. These stories are especially instructive as organizations continue to negotiate their way through the myriad problems created by the global pandemic.

THE SPREAD OF MISINFORMATION INFECTS MINDS

Summary

Supervisors falsely and irrationally claim to employees and outside contractors that the company is exposing them to “COVID water,” leading to their refusal to work, but management takes an empathetic approach and counsels rather than fires the workers. This situation causes a major issue for the company, and the outcome is fair, at best.

This incident occurred in the summer of 2020 during the COVID-19 lockdown in one of the buildings maintained by our real estate management company. We had trained our onsite maintenance staff on government health guidelines and supplied them with

appropriate personal protective equipment (PPE). According to the state labor agency, their jobs were considered medium risk.

An emergency work order came in to fix a water leak coming through the ceiling of an apartment. The company is required by law to remedy certain living conditions in a timely manner, and this situation qualified as a bona fide emergency maintenance need.

The resident of the apartment into which the water was leaking did not have COVID-19, but there was a rumor circulating that the resident of the apartment above, *from* which the water was leaking, was COVID-19 positive. The onsite maintenance staff—technicians, assistant supervisor, and supervisor—all refused to complete the work order. They said they feared getting sick from “COVID water.” There is no such thing, and their fear was not based on any scientific data or rational information.

Management hired an outside contractor to fix the leak. The company had established a COVID-19-compliant practice with its contractors and ensured that all legal disclosures were made. The next day, however, the contractor raised an issue over COVID-19 safety. The contracted technicians had been told by our onsite supervisors that the company was knowingly exposing them to COVID-19. Company executives told the contractor that this was false.

Amidst the unique and changing landscape of COVID-19 regulations, we now had to deal with two issues: our staff’s and supervisors’ refusal to enter a residence to do required emergency work, and our supervisors’ inappropriate and inflammatory communications to staff and outside contractors.

Among the several management teams who got involved to resolve these issues were HR, the communicable disease group, and the C-suite. We sought the approach most suitable to keeping us compliant with COVID-19 guidelines, while prioritizing housing law, healthcare privacy, and safety regulations. We tried to empathize with the concerns of staff even as their supervisors were failing to manage them properly. Therefore, rather than terminating anyone, we decided to provide counseling to everyone.

becoming entrenched and weaponized). It was necessary for this organization to have tough, honest conversations to address a problem that had an immediate impact on employees and nearly led to an even greater impact on the community.

Me + We + WO + RK Framework

Bringing about improvement and change here would require focus on the *WO* question (what were the work outcomes of this conversation?).

QUICK DEFLECTION OF AN OVERREACTION

Summary

Going way beyond standard COVID-19 guidelines and in violation of health privacy laws, a manager wants to take the temperature of everyone in her office, but she is stopped before she can do so. The outcome of this minor situation is excellent.

When essential workers were allowed return to work after the first COVID-19 lockdown, HR put in place reopening policies and procedures in compliance with various healthcare regulations, including privacy under the Health Insurance Portability and Accountability Act (HIPAA) in the United States. Before entering the building, employees were required to fill out and submit a confidential form as to the condition of their health. Still, many members of our workforce came back with some hesitation.

A senior manager in one of our branch offices overreacted. Taking matters into her own hands, she planned on personally taking the temperature of every employee who came into her building. What's more, she planned to collect the data and put it in a file for later use—a clear violation of HIPAA. Although her plan was

over the top, it was well intentioned as a safety measure. But her actions could have had serious repercussions.

As soon as HR became aware of the manager's plan, leadership was informed so that a decision could be made as to how to stop her from executing it.

The situation had to be handled delicately because this manager was at a high level and in charge of many projects. She might overreact to the cancellation of her plan, causing a negative ripple effect in that branch office. It was decided that HR should talk to her, not the top executives, so she would not feel threatened.

HR approached the manager and explained the HIPAA rules, how her actions would violate them, and the likely repercussions on the company. She understood and explained the change of plans to her team.

The issue was resolved, the potential rule violations were avoided, and HR was able to reinforce its official policies and procedures. We now have an HR representative in all branch offices to address employee concerns about COVID-19.

We anticipate similar discussions among employees about vaccinations. HR is working through different scenarios and is formalizing appropriate policies and procedures to avert other overreactions by staff.

Lessons Learned

A crisis and its aftermath can spur a well-meaning manager to act in ways that do not align with company policies or, more importantly, with the law. Organizations can do several things to preclude unwanted or unnecessary actions taken by leaders in such situations.

First, present a united front. Provide legitimate information right away, which will help to quell panic or misguided overreactions by employees and managers alike. In this case, an HR representative should have been visible and available in all of the company's offices upon reopening to address people's fears and anxieties.

but their human need for conversation can't be stopped, otherwise they'd explode. People are encouraged to have respectful dialogue and educate themselves on the issues. This is a difficult case with an excellent resolution.

After a mass shooting in which children were killed, several employees were following the news coverage in the office. It was a very sensitive subject, especially while events were still developing. There had been several shootings in recent months with tragic losses of lives, so people had already formed strong opinions.

One employee said that mass shootings are the result of mental illness and that the mentally ill need to be isolated from society. Another employee said the reason for shootings is easy access to guns, which is virtually uncontrollable in America. A third expressed frustration and saw no answers in sight. More and more people began to express a whole spectrum of viewpoints, even as they dismissed others' arguments.

The debate became heated, almost explosive. Work literally stopped for a good hour. Productivity ceased. Some employees left. Some brought in colleagues from other departments to get involved. Agitated conversations continued on and off for the rest of the day.

A few people, though, were afraid to join in any discussion. A manager came to HR to say he wasn't going to touch the subject because it would "open a can of worms." Another person said she didn't respond to a coworker in order to avoid "making him angry" because he owned "enough weapons to arm a small country." She added ominously, "I don't want him to use that army against me."

Comments like that made me concerned about the safety of everyone participating in or listening to the discussions taking place that day and in the future. Workplace arguments can sometimes end up with security getting involved. I didn't want matters to go that far.

At first, I thought about asking everyone to put a lid on all the talk. But I began to realize that people's emotions were boiling

over and they needed some kind of outlet. Shutting them up might do more harm than good—it might even push them over the edge. I decided that opening the lid of this pressure cooker and allowing freedom of conversation would do more to ensure people’s safety.

In addition, I knew that several HR managers were already engaged in what was happening in the office. An intervention wasn’t needed. I listened in on various conversations, and it was clear that most of them were actually productive and reasonable. People were encouraging each other to rely on facts and data. They were consulting Google and Wikipedia and other sources to find support for their points of view. Information was exchanged. Statistics were compared. Many said they planned to do further research.

The overall discussion seemed to coalesce around two main topics, gun violence and mental illness. On the gun issue, opinions on both sides seemed entrenched; on the issue of mental health, I detected a real potential for changed attitudes. The fact is that most mentally ill people are not violent; rather, they are usually the victims of violence.

Mental health is important to society and the workplace. We need to take a fact-based approach to mental illness, treatment options, society’s responsibilities, stigma reduction, and applicable laws such as the Americans with Disabilities Act (ADA). The value of education in this area is unbeatable.

I saw people educating themselves in the midst of tragedy. Our company has a large cross-functional group of well-informed employees. I praise their humanity and their ability to be open, listen to others, and perhaps change minds.

Lessons Learned

When news on a subject under discussion in the workplace is still emerging, or when the topic is particularly raw or controversial, real leadership becomes especially important. Encourage everyone to be considerate and courteous, even when debate becomes heated.

to the office. Upon their return, however, these employees began to deal with the stigma of their illness.

Some of their coworkers sent general messages of concern to HR and the health team, wondering whether it was really safe for people who had been COVID-19 positive to be back on the premises.

Other coworkers circulated more personalized messages about the returning employees, evoking blame and punishment. One rumor accused them of ignoring mandated health and safety measures, implying that they got themselves sick. Another rumor asserted that they should be held responsible for contaminating the workplace.

The messages and rumors revealed to the HR department how many issues it now had to deal with: ensuring a safe and healthy office environment, regaining the trust of the entire workforce, eliminating any bullying of the recovered employees, and safeguarding everyone's personal data.

To address these issues and determine a course of action, the HR staff involved the health team, the managers who supervised the recovered employees, and the employee assistance program (EAP) vendor. One goal was to reframe the conflict in a constructive way, for the recovered employees as well as for their colleagues. Another goal was to protect the recovered employees from bullying, while acknowledging their colleagues' stresses and fears.

Lessons Learned

This organization's effective use of communication, management participation, and leadership were critical to the resolution of the issues raised here. HR effectively led efforts to increase staff awareness of the most recent factual information about COVID-19 and answered questions, which helped minimize worries. It restated and reinforced workplace safety and health protocols and explained return-to-work guidelines, which reminded people of their responsibilities.

An all-hands meeting is a great starting point for every organization to employ in a similar situation. Follow up with line managers to identify related issues in individual departments and to discuss next steps.

Learn more about the psychology of postrecovery COVID-19-positive employees. Urge them, along with coworkers who are reacting with anxiety, fear, or bullying, to make use of the EAP. Sometimes the root causes of behavior are not readily apparent, so it's helpful to seek insights with guidance from a mental health professional. Put processes in place to reduce harmful behaviors—not just bullying but also accusations of contamination and rumor spreading. This will help to increase both morale and compliance with health protocols.

To raise the level of empathy in the workplace, encourage employees to listen to the stories of colleagues (who are willing to share their experiences) to better appreciate their strengths in having defeated the illness. This will enable them to understand and deal with not only their coworkers but also their own behavior in a meaningful and respectful way.

Empathy/Polarization Index

The key factors involved here were *belonging* (the organization provides all staff with a sense of belonging) and *conflict management* (the organization resolves conflict rather than buries it). This organization appropriately focused its efforts first on stopping the onslaught of vicious or careless exclusionary comments and behavior toward others. Next, it should work on rebuilding a culture and trust among employees.

Me + We + WO + RK Framework

Bringing about improvement and change here would require focus on the *We* question (what did my counterpart experience during this conversation?).

years earlier. When I asked them why they hadn't reported the incidents at the time, they also brought up her elder status: "Oh, that's just how some people her age think."

In my opinion, the coworker's behavior warranted immediate termination. The executives, however, felt that her comments were due to ignorance and not intent to cause harm. After discussing what action to take, we settled on giving her a final written warning.

When she was issued the warning in my office, the coworker seemed genuinely surprised. She truly did not seem to comprehend that her comments were inappropriate, rude, and disrespectful. She explained they "didn't mean anything" and she "was just making conversation." She promised to be more aware of what she said in the future.

Afterward, I emailed all the employees involved in the investigation. I apologized on behalf of the company and stressed that we did not condone the coworker's behavior. One of the employees who disclosed the years-old comments contacted me several days later, and we met for a very frank talk. He had thought about the situation and was now upset to have allowed the coworker's comments to continue for so long without being addressed.

This employee, who was Black, said that hearing racist remarks from older people is "something African Americans put up with." It wasn't until he received my apology that he realized "this was *not* okay," certainly not in the workplace. He thanked me for standing up for employees of color and promised to address the matter differently if a similar situation arose. But he was also surprised that the coworker had not been fired.

Any positive effects from the warning on the coworker's behavior were short lived. A year later she was reported for making comments about sexuality to a gay employee. She was again disciplined, again in a limited fashion thanks to the company executives—so much for "final"—and again did not seem to recognize that her comments were unprofessional and inappropriate in a work environment.

This limited level of discipline did not reflect the severity of the situation and was ineffective. Allowing the coworker to remain at

the company sent the wrong message to employees, especially those who were directly affected by her comments (regardless of their gratitude for an overdue apology).

Lessons Learned

Organizational policies that prohibit discriminatory behaviors targeting people of a particular race, gender, ethnicity, sexual orientation, or age apply to *all* employees. Ironically in this case, members of the targeted group (race) dismissed discriminatory comments because they were voiced by a member of another often-targeted group (age).

Reinforcing antidiscrimination policies is especially important when, as here, the unacceptable behavior is excused (by the transgressor's peers or subordinates) or treated dismissively (by those in authority). Take appropriate steps to stop policy violations and counter their harmful effects. Work compassionately with colleagues at every level of the organization to remind them that such behavior is not acceptable under *any* circumstances by *anyone*. Accept that sometimes, separating a repeat offender from the organization is the best course of action to build the culture you want.

Empathy/Polarization Index

The key factors involved here were *polarization* (the organization welcomes individual as well as collective opinions of all kinds and works to prevent people from becoming further polarized from one another) and *openness* (the organization fosters openness to different perspectives). This company must educate those in its workforce who are intolerant of others' opinions or actively divisive. More open engagement would have a positive influence on culture, camaraderie, and collaboration.

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a COVID-19 test and then bring him back home. As soon as he left the office, the employee's workstation and other areas he had been in were sanitized.

Two days later, HR was notified that the employee tested positive for COVID-19. Local health authorities had already been notified, and he was placed in a quarantine facility. (He did not need hospitalization.)

It was clear that the employee violated our company's health and safety rules and protocols, which had been set up months earlier and of which all staff were aware. HR leadership asked me to join them in deciding what to do about him. I advised them, based on humanitarian considerations, that the company's primary focus should be on letting the employee recover from his illness. Pursuing any kind of discipline at this point was a distant secondary consideration.

The company engaged in damage control to ensure the health and safety of the rest of the staff. We had every employee isolate and work from home for fourteen days, and the entire premises were completely sanitized.

We also identified sixteen employees at risk due to their exposure to the COVID-19-positive employee. They were tested for COVID-19, with the cost borne by the company. Of the sixteen, seven employees tested positive. Six of them were asymptomatic; one exhibited symptoms, which fortunately were mild.

During the two weeks everyone worked from home, HR reviewed the company's COVID-19 protocols over Zoom sessions with employees. We also strengthened the company's code of conduct to put teeth into following the rules. Specifically, we stipulated that violations of the COVID-19 protocols would be considered serious offenses, to be dealt with severely.

After the two-week quarantine, employees who tested negative began reporting back to the office on a rotating basis (two weeks onsite, two weeks working from home). The seven COVID-19-positive employees were retested, and only those who tested negative could return. The symptomatic employee was retested

twice before his results were finally negative and he was allowed to work onsite.

Once the original coughing employee recovered from COVID-19, tested negative for the virus, and came back to the office, HR resumed its discussions over what to do about his violations of our health protocols.

I presented three options to HR leadership and the CEO. We could ignore the incident and let it pass we could counsel the employee, or we could proceed with administrative discipline. I also presented the repercussions of each option.

Ignoring the incident and letting it pass would tie the company's hands as to how to treat other employees who incurred violations. This response would also weaken the rules and protocols meant to protect everyone's health and life.

Counseling the employee would be seen as just a slap on the wrist, considering the seriousness of his violations. This response would still tie the hands of the company if similar violations occurred.

Pursuing an administrative case would send the right message to all employees. It would deter future violations and encourage people to follow the rules and protocols that ensured everyone's safety. The CEO wanted to pursue this option but wanted legal counsel to weigh in first.

Counsel was very hesitant to pursue an administrative case, fearing that if the employee filed a complaint, the government would not look kindly at it. I reminded him that the government already had the power to round up COVID-19 violators through local authorities, even jailing or fining some of them. I also pointed out that once a case was begun, the company could still choose from a range of penalties, from a reprimand to serious discipline. In the end, counsel agreed to proceed with an administrative case.

It was now the beginning of autumn. The company formally asked counsel to prepare an administrative memo for HR seeking the employee's explanation for his protocol violations. A month later, I asked for an update. HR was still waiting for the memo from counsel.

does not run afoul of the law, but if unresponsive, they must be pressed (diplomatically) for an explanation or a resolution. In this case, HR should have prepared the administrative memo earlier in order to hasten the disciplinary process. This would have alerted all staff to the importance of complying with COVID-19 protocols—enough, perhaps, to have deterred the three additional violators who followed the first sick employee.

Another issue is making certain that management knows what the rules are and that they must follow them along with everyone else and establishing consequences for *not* following the rules. In this situation, the employee incorrectly noted his condition to his supervisor, rather than HR as required, but then the supervisor did not tell HR either. The supervisor, like the employee, did not meet an important protocol established to navigate a devastating and unprecedented crisis.

Consider how your organization establishes consequences for managers. Communicate guidelines and policies broadly to emphasize the importance of management cooperation and commitment in enforcing rules uniformly for all.

Empathy/Polarization Index

The key factors involved here were *conflict management* (the organization resolves conflict rather than buries it) and *entrenchment* (the organization encourages staff to understand others' perspectives, refrain from making judgments, and prevent our opinions from becoming entrenched and weaponized). This company was able to take decisive action to control its immediate health-related problems, but any action to deal with those causing the problems was delayed. People had to be reminded that their individual behaviors can affect everyone, possibly causing harm and damaging trust.

Me + We + WO + RK Framework

Bringing about improvement and change here would require focus on the *We* question (what did my counterpart experience during this

conversation?) and the *WO* question (what were the work outcomes of this conversation?).

THE NONCOMPLIANT COMPLIANCE OFFICER

Summary

Over the course of the pandemic, a high-level executive's job performance deteriorates. She begins to ignore the health and safety protocols she herself helped to develop, negatively influencing her own staff and serving as a bad role model for the rest of the workforce. The outcome of this major situation is merely fair.

At the beginning of the pandemic crisis, our chief risk and compliance officer (CRCO) cochaired a committee with HR to develop our company's COVID-19 protocols. It decided that employees would alternate working from home and working onsite every two weeks. Government regulations required onsite employees to wear masks and face shields in the presence of other people (both coworkers and the public). The company would implement and enforce this rule by designating a "COVID officer of the day" to monitor staffers' compliance.

Months into the situation, the CRCO's job performance began to suffer, both via Zoom when she worked from home and face-to-face when she worked onsite. Her assignments were always late, and she appeared distracted and unfocused in meetings.

The CEO called her attention to her performance. HR reached out to her to ask what was happening and what help she needed. The CRCO responded that her workload was so heavy and she had so many meetings that she could barely keep up with her tasks. HR agreed to hire a part-time assistant for her.

HR also worked with the CRCO to identify the source of her difficulties. First, they determined that she did not have to attend

The committee decided to impose on the CRCO a penalty of five days suspension, but she resigned from the company before the notice was served. Due to the totality of her failings, management accepted her resignation immediately.

HR and management reiterated the company's COVID-19 protocols to all employees.

Lessons Learned

Organizations will want to know what is causing the apparent self-destruction of a seasoned leader, but the line between an expression of concern and an invasion of privacy is narrow. When all signs indicate that someone is struggling and needs help, how deeply should their employer look into the state of their physical and mental health? The organization should examine its true motivations for seeking or relaying information and take care to treat troubled employees as individuals.

Compassion is critical to a satisfactory and humane resolution. Make health-related inquiries within the confines of law and organizational policies. The next step might be to suggest that someone with health issues get medical or psychological attention; consult with counsel to ensure this is done in a legal and respectful manner. Showing empathy yields additional benefits for everyone involved.

HR has an obligation to actively drive compliance with COVID-19 protocols and other health and safety measures to prevent anyone—assistants as well as executives—from becoming lax in observing them. Good communication is essential. Regular updates, reminders, and public announcements help reinforce the desired behavior and expectations so that everyone remains mindful of their responsibilities. That did not happen here. The CRCO's deteriorating behavior in violation of established policies set a bad example, was left too long unaddressed, and influenced her underlings to take equally unfortunate actions.

Empathy/Polarization Index

The key factors involved here were *conflict management* (the organization resolves conflict rather than buries it) and *belonging* (the organization provides all staff with a sense of belonging). The organization did not seem to care about a struggling employee or about the short- and long-term organizational effects of her personal situation. It should make a dedicated effort to rebuilding and communicating trust and empathy toward its workforce.

Me + We + WO + RK Framework

Bringing about improvement and change here would require focus on the *WO* question (what were the work outcomes of this conversation?) and the *We* question (what did my counterpart experience during this conversation?).

I BROUGHT YOU ALL SOMETHING FROM MY VACATION

Summary

An employee vacationing in an area infected with COVID-19 returns to work without telling anyone where he had been. His status is discovered by coworkers who see his vacation photos on social media and realize he has exposed them to the virus. When he falls ill and new infections emerge, the company is plunged into crisis. Eventually it is forced to make a decision about business continuity that benefits no one and seems to resolve nothing.

The COVID-19 pandemic reached my part of the world, and soon the first incident in my country was detected. The company I work for instituted some health protocols, but like everyone else, we had no prior experience with this novel virus. Neither did the government, which issued meager concrete guidance.

Still, the evacuation occurred many hours after the employee's positive test result became known. Worse, management did not consider how many more people were at risk beyond the sick employee's close contacts. Since his return from his vacation, he had exposed nearly a hundred other employees to the virus, directly or indirectly. Even the executives figuring out how to address the crisis increased their own exposure by staying late in the office.

After two more employees were discovered to be infected with COVID-19, the company finally ordered the entire workforce quarantined, and we have worked remotely ever since.

Lessons Learned

This company ensured its business continuity through various incremental measures, but management should have taken more decisive actions and sooner. Going forward, they will have to work to rebuild employees' trust and show they are doing more to protect their health and safety. Its efforts will help minimize the harm done to the company's reputation—now that people know about the vacationing employee who brought COVID-19 back with him to the workplace.

While not common in the United States, it is common in other parts of the world for organizations to have an in-house doctor. In this case, the company doctor should have immediately placed into quarantine *any* employee returning from *any* trip abroad. As soon as the positive test result became known, the doctor should have immediately ordered the building evacuated and decontaminated.

This incident raises additional issues that every HR department ought to consider:

- » Does anyone in an organization have the authority to monitor or ask questions about an employee's social media posts related to their travels and health?
- » During a pandemic, can an employee be disciplined for concealing information about travel to a known contagious hot

spot? (Did an applicable discipline policy exist here? If so, was it applied to this employee?)

- » How should the protection of an employee's personal data be balanced against the health or safety risks they might pose?
- » In the absence of government advice or requirements, can the company doctor require an employee to quarantine?
- » How, when, and why (or why not) should an organization implement health and safety policies, enforce consequences for failure to abide by them, and communicate about such measures to employees?

Empathy/Polarization Index

The key factor involved here was *conflict management* (the organization resolves conflict rather than buries it). This organization did a good job by tackling a problem head-on rather than ignoring it, so healing could begin for its culture and employees. Those who carelessly think only of themselves have to understand how many others can be affected by their decisions and actions.

Me + We + WO + RK Framework

Bringing about improvement and change here would require focus on the *We* question (what did my counterpart experience during this conversation?) and the *WO* question (what were the work outcomes of this conversation?).