

What Urgent Care Operators Need to Know About Office Parties

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Working in an urgent care center can be stressful. Patients often don't feel well, there's pressure to keep throughput under an hour, and providers must balance simultaneous demands of patient consultations, chart documentation, and staff orders. As we approach the Halloween, Thanksgiving, and Christmas holidays, an office party may seem like a great way to blow off steam in a fun, informal environment that rewards everyone for their hard work.

But even if you act with the most noble of intentions, an employee party could become the biggest stressor you've faced all year. Instead of strengthening the team, office parties can be divisive, inviting new tensions and disputes among colleagues. And while you may have intended to give something back to staff, if a party is handled indirectly, all you may receive in return is a lawsuit.

Work Social Events Can Alienate and Exclude

You intended to have a party to bring the team together—after all, it's critical for urgent care teams to work cohesively—but there are many factors of the office party that can unintentionally cause staff members to feel excluded.

First, the name of your party can be controversial. If you call it the "Christmas party," you'll exclude employees of religions that don't celebrate Christmas. If you call it the "holiday party"—the best approach to take—you still run the risk of offending some who feel Christmas should be the focus. "Celebrating" Halloween may likewise offend certain individuals. And when you're starting a new tradition—such as celebrating birthdays—realize that the employees with birthdays that occurred immediately before your new celebration went into effect may be hurt that their own birthdays weren't deemed "important enough" to recognize with a dedicated party.

Next, the date and time you choose for the party can unintentionally prevent some staffers from showing up. Employees with small children will have more difficulty attending an evening event, and those who have second jobs, attend school or who simply prefer to spend the weekends with family may resent having to forego their personal lives for a work activity. If you try to avoid these issues by scheduling the party during working hours, you'll have to either close your facility (sacrificing revenue and inconveniencing patients) or those responsible for covering the operation will miss out on the fun.

Third, the party's location can alienate. Parties held at a bar, club, or where alcohol is freely served will be challenging for those who are in recovery or who abstain for religious reasons. It also excludes those in the workforce who are over 18 but not yet 21 years of age—especially if the facility requires ID for admission. In addition, you'll need to make sure the location allows the same level of access as your workplace—otherwise disabled employees might find it difficult to attend.

Fourth, who you invite can prove to be a minefield as well. If temporary staff and independent contractors are permitted to attend an employee-only event, it can provide some basis for a later claim that they are actually employees. Inviting "spouses" will exclude partners and same-sex relationships, and inviting both "spouses

and partners” (setting an expectation all attendees will be accompanied) alienates single staffers.¹ Involving non-employee “companions” may also “expose” aspects of employee’s personal lives—details which they may prefer to keep private.

Last, employee perceptions of the event—particularly by those who feel excluded from the celebrations—may not always be positive. Even though you intended the party as a reward, in difficult economic times, staff may view a party as a waste of money and time. Even fully-included employees might feel the money should have been spent on a long-awaited pay raise or a holiday bonus. Workers who don’t drink, or who have to shell out money on a sitter, forego other plans, or come alone may be particularly resentful.

Conflict of Interest

No matter the relationship your company has with a certain supplier, inviting them to an employee party or accepting food, drink tokens, raffle prizes, and other “contributions” for the party can lead to allegations of preferential treatment or inappropriate influence. In a 2006 report, the *Journal of the American Medical Association* urged medical providers to enforce stricter conflict of interest guidelines—such as refusing all gifts, meals and payments from vendors.² Discussion of conflicts of interest has been a hot topic across the entire medical profession—in 2009, Steven Nissen, MD, former ACC president and chair of the cardiovascular medicine department at the Cleveland Clinic stated “It doesn't matter whether there is, in fact, a quid pro quo, when professional medical societies accept money from industry, it creates an appearance of influence. And that appearance undermines the most important thing we own in medicine, and that's the trust of patients.”³

Likewise, inviting patients or clients to the party can convey the impression that employees are expected to entertain them: an act which can transform a voluntary party into a work event—possibly even one requiring overtime pay under the Fair Labor Standards Act.

And if you weren’t already convinced, consider this: do you really want an inebriated employee to let your suppliers or clients know how they (or you) *really* feel?

Legal Liability: Sexual Harassment

Worse than unintentional slights and hurt feelings, the office party can be a landmine for legal liability. Sexual harassment at the office party is perhaps the ultimate cliché. But the stereotype exists for a reason. Almost 30 percent of workers have observed sexual advances between people who work together at such gatherings, according to a LexisNexis survey.⁴ And just because the party was voluntary, happens offsite, or outside working hours doesn’t mean you’re off the hook. Any sexual harassment with a nexus to the workplace is likely to become an employer’s problem—especially if he knew, or should have known, that the behavior was occurring. In fact, an employer may even increase his liability by providing an environment that made the harassment easier or more likely to occur. Don’t hang mistletoe or organize games with physical contact, a “truth or dare” element, or any other games that could encourage less than professional behavior.

¹ Bloomberg Businessweek—Planning Office Holiday Parties Without Lawsuits <http://www.businessweek.com/management/planning-office-holiday-parties-without-lawsuits-11152011.html> (Retrieved June 10, 2012)

² New York Times—Seducing the Medical Profession http://www.nytimes.com/2006/02/02/opinion/02thu3.html?_r=1 (Retrieved on June 10, 2012)

³ American Medical News—Pharma Support of Medical Societies Raises Conflict-of-Interest Concerns <http://www.ama-assn.org/amednews/2009/04/13/prl20413.htm> (Retrieved on June 10, 2012)

⁴ PR Newswire—Mistletoe or Legal Woes: Holiday Parties May Pose Legal Pitfalls For Many Americans, New National Survey Finds <http://www.prnewswire.com/news-releases/mistletoe-or-legal-woes-holiday-parties-may-pose-legal-pitfalls-for-many-americans-new-national-survey-finds-75663547.html> (Retrieved on June 11, 2012)

Take steps to prevent harassment by immediately stepping in if you see inappropriate behavior. If you see workers dancing in a manner not suited to a work event, for example, pull them aside to remind them about appropriate workplace standards.⁵

One of the most difficult celebrations to navigate is the office Halloween party or costume contest. Individuals' ideas about what constitutes an acceptable costume for the workplace don't always jive with management's expectations. Inevitably, someone chooses a racially, sexually or politically charged costume which ramps up workplace tension and may even lead to a claim of harassment.⁶

But employees aren't the only ones who will see the Halloween costumes. If you allow employees to dress up in the workplace, you run the risk of offending patients, too. Consider a patient who sees the receptionist dressed up as a "sexy nurse." Can you be sure she will realize it was intended to be a lighthearted Halloween costume? Or is it possible that the patient will think your nursing staff really is that unprofessional, inappropriate and revealing?

And how about the patient who observes a staff member dressed as a bleeding patient? Will the injured patient take the costume as a joke, or is he likely to be offended? Worse, will patients fail to recognize the Halloween event and think that your facility lets seriously injured patients wander around unsupervised and without care. You can't be sure what patients will think—and you won't always have the opportunity to find out, because you may have lost their business for good.

Health and Safety Regulations

Concerns over harassment and patient perceptions aren't the only reasons to be wary of Halloween costumes in the workplace. In an urgent care setting, your Halloween celebrations can become truly scary, posing real health risks to patients, employees and their families too.

If a health care worker enters the room of a patient with MRSA, his clothes will be contaminated by the bacteria 70 percent of the time—even if the worker has no physical contact with the patient.⁷ For safety reasons, employee uniforms in medical settings must consider exposure to blood borne and other pathogens such as MRSA, to avoid continued transmission of infectious bacteria to other patients, the community and family members. This is why patient-facing employees wear a medical uniform with closed toe shoes; durable medical scrubs are made of a plastic fiber designed specifically for medical use and there are attributes of the material—such as non-absorbency—that relate to the handling of blood, urine and potentially infectious materials.

Whereas medical uniforms are easily cleaned in hot water, costume clothing is not designed with medical standards in mind. For instance, if a costume became contaminated with staph and was then washed in cold water with children's clothing, others in the family could become infected. And costumes pose other safety risks as well—for example, a "tail" on a costume could easily knock over urine samples or blood collection and become contaminated.

⁵ Texas Banking—Proceed With Caution: Know How To Limit Your Liability Risks When Hosting Holiday Parties

⁶ Legal Match—Your Office Halloween Party Doesn't Need to Turn Into a Sexual Harassment Case

<http://lawblog.legalmatch.com/2010/11/05/your-office-halloween-party-doesn't-need-to-turn-into-a-sexual-harassment-case/> (Retrieved June 11, 2012)

⁷ New York Times—The Doctor's Hands Are Germ-Free. The Scrubs Too? http://www.nytimes.com/2008/09/23/health/23well.html?_r=1 (Retrieved June 12, 2012)

In addition to specified worker uniforms, exposure protocol and cleanliness standards, your facility probably also has strict guidelines about the consumption of food and drink. That's because OSHA regulations prohibit the storage, serving or consumption of food in areas where pharmaceuticals, medical waste or lab samples are handled.⁸ In addition, food scraps can attract ants, roaches, rodents and other pests which would all create a potentially dangerous and unsanitary environment for patients as well as staff.

Therefore, for safety, cleanliness and compliance purposes, the holiday party should probably not take place in the urgent care center. If the party is held at the center, it must be strictly contained to an office or the employee break room—a difficult feat to achieve. Absent constant monitoring—or locking everyone in—there's virtually no way to prevent an employee from wandering off with his or her food and drink.

Workers Compensation

When an employee burns his hand on the July 4 barbeque, or the only reason people have to “give thanks” after your Thanksgiving potluck is when they finally get relief from the food poisoning brought by a coworker's candied yams, it's more than just a disappointment. In fact, you could be liable for some hefty workers' compensation claims.

In some states, workers compensation isn't applicable when events are *voluntary* and *held offsite*. The difficult part, however, is *proving* the voluntary nature of the event. And if there's any indication of *employer negligence* then you can be sure the employee will be able to make a claim.⁹

Tax Liability

To really give back to your employees, you may be thinking that gift cards would be a nice touch at the end of year holiday party. Perhaps you're even planning a raffle with some substantial prizes. Unfortunately, gift cards and raffles can be more of a headache than you imagined, leaving you in all kinds of hot water with the IRS.

Like any other cash sum, the IRS views gift cards as a taxable payments to employees. While you might have heard that the value was so small as to be considered “de minimis,” the IRS makes no such exception.¹⁰ No matter how minimal the amount, someone is responsible for paying the taxes. Raffles are even more complicated. Depending on the amount of the prize, the type of organization, and whether the prize itself is deemed cash or non-cash, the organization is responsible for tax withholdings on it. There's even a dedicated annual return you'll have to complete—Form 945, *Annual Return of Withheld Federal Income Tax*—or run the risk of falling foul of the IRS.¹¹

Alcohol

Alcohol is probably the biggest risk posed by any office party. Not only does alcohol loosen people's inhibitions—so people feel comfortable telling the boss how stupid they think the new policy is, or admitting to a longtime crush on a coworker—it also means you'll have to be extra careful that no employees end up with a DUI charge at the end of the night. How you police the use of alcohol is another tricky situation. What one employee views as his limit, another employee may perceive as only just getting started. Peer pressure,

⁸ U.S. Department of Labor Occupational Safety and Health Administration—Bloodborne Pathogens http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=standards&p_id=10051 (Retrieved June 12, 2012)

⁹ Illinois Workers' Compensation Blog—Holiday party injuries are usually not covered. Unless . . . <http://www.illinoisworkerscomlaw.com/2008/12/articles/do-i-have-a-case/holiday-party-injuries-are-usually-not-covered-unless/> (Retrieved June 11, 2012)

¹⁰ Ask CPA Sam—You Mean Gift Cards Are Taxable? <http://askcpasam.com/blog/2009/01/19/you-mean-gift-cards-are-taxable/> (Retrieved June 11, 2012)

¹¹ IRS Notice 130—Tax-Exempt Organizations and Raffle Prizes http://www.irs.gov/pub/irs-tege/notice_1340.pdf (Retrieved June 11, 2012)

an awkward environment and the sheer free-flowing availability of free drinks can mean workers drink more than they intended and significantly more than they should. While it may seem as though these risks can be avoided by watching staff closely and refusing to allow intoxicated employees to drive, this adds a layer of responsibility and liability when staffers start to rely on the organization to determine their ability to drive, as opposed to taking personal responsibility for the decision.

In fact, just permitting employees to drink at a work-related function can have a significant impact that lasts well after the holiday festivities have passed. Even if nothing untoward occurred, the next time you want to discipline an employee for charging alcohol to a business lunch or being under the influence at work, your policies will be weaker for it. If you've sanctioned the distribution of alcohol on the premises, for example, your "zero-tolerance" policy for precisely the same behavior will be much more difficult to establish.

Insurance and Lease Agreements

Check your lease carefully if you plan to serve alcohol at the urgent care facility or use the building for a purpose other than "medical use." This could not only void the terms and conditions of your lease, but in some states it could be a potential violation of licensing regulations. The same advice applies to your insurance policies—because if they become void, you could be facing thousands of dollars in liability if a stumbling partygoer trips over medical equipment.¹²

Minimizing Your Risk

By this point you're probably feeling apprehensive about the whole idea of a workplace party. But handled correctly, an office party can still be a way to show your appreciation for staff. You'll just need to make sure you take as many precautions as possible.

1) Watch Your Wording

Think carefully about how you promote the party. Make sure that flyers emphasize the voluntary nature of the event, and not that workers should attend the event as a term or condition of employment. Failure to characterize the event as strictly voluntary can increase your exposure to workers compensation claims and overtime. This is especially true when the party is held during working hours. The perception that the company is paying employees to attend can make the party seem more of an obligation than a choice.¹³

2) Set Expectations

Communicate with staff about the specific expectations for the event. Remind workers that this is a company-sponsored event and they should be mindful to display appropriate behavior. Emphasize that company conduct requirements still apply regardless of the location, date or time of the party. Inform staff that harassment, discrimination, and unprofessional behavior will not be tolerated and will be cause for discipline, up to and including dismissal from employment.

3) Inspect the Venue

Carefully inspect any offsite venue to be sure there are no hidden health and safety hazards. Items to watch for include:

- Slip, trip and fall possibilities: loose carpeting, uneven floors, slippery surfaces and loose wires that could all lead to a workers' compensation claim.

¹² Pro Security Zone—Avoiding Litigation Problems with the Christmas Party

http://www.prosecurityzone.com/News/Education_training_and_professional_services/Exhibitions_and_trade_shows/Avoiding_litigation_problems_with_the_christmas_party_1713.asp#axzz1xXWKvxSL (Retrieved June 10, 2012)

¹³ Yahoo Voices—Office Holiday Parties: The Fun, Obligation and Risks <http://voices.yahoo.com/office-holiday-parties-fun-obligation-risks-720397.html?cat=25> (Retrieved June 10, 2012)

- ADA compliance: will the facility meet the access needs of your disabled workers? This should be a given for commercial venues but may be a consideration if the event is to be held outdoors at a park or beach.
- After dark: is the parking well-lit or will you need to escort employees at the end of the night?
- Emergency assistance: do you know where the fire exits are and how to evacuate safely? Does the venue have emergency medical equipment, such as defibrillators, and is there a hospital nearby?

4) Limit Alcohol

The best approach is to ban alcohol altogether – but that might not always be possible. If you’re going to serve alcohol, take precautions to reduce the risk:

- Only allow alcohol at offsite locations
- Use a professional bartender who will pour the correct quantities. You don’t want employees attempting to stick to one or two drinks to suddenly realize that each drink contained three or four times the usual amount of alcohol.
- If you aren’t holding the function at a licensed bar or restaurant, make sure that the bartender follows all procedures to prevent alcohol sales to minors.
- Offer a wide selection of soft drinks and publicize virgin versions of specialty drinks.
- Provide a fixed number of drink coupons. However, just because you pass out two coupons to each employee doesn’t mean that’s all each person will drink. Expect employees to trade coupons and realize that some workers will end up with many more drinks than two.
- Employ a wait staff so that each guest’s drink is poured individually, and instruct servers to limit the number of drinks per person.
- Provide a generous amount of substantial snacks to soak up the alcohol.
- If you aren’t serving alcohol at your party but alcohol is served at the venue (such as a bar or restaurant), be prepared to address employees and their guests who “step away” to consume alcohol at the bar. Same goes for smoking.

5) Provide Transportation

Less than one in three workers have attended an office party in which a taxi or designated driver service was provided to any employee who needed it.¹⁴ But providing transportation—a shuttle service, taxi, designated drivers or coach—is really the only way to ensure attendees don’t have a problem with DUI. Although you might intend to assess each driver before they leave, this won’t guarantee that the individual is under the legal limit. In fact, that approach could even increase your liability, since the organization officially sanctioned the employee to drive. Offering free transport to and from the event is the best way to prevent the liability that comes from driving under the influence.

Conclusion

When considering whether to host an office party to reward employees, the urgent care operator must look beyond the positive benefits to camaraderie, morale, and satisfaction. By understanding potentially negative employee perceptions and common legal risks, the urgent care operator can make informed choices as to the most appropriate form of employee recognition; the venue, time, and activities associated with an office party; and take steps to make workplace events as rewarding and problem-free as possible.

¹⁴ PR Newswire—Mistletoe or Legal Woes: Holiday Parties May Pose Legal Pitfalls For Many Americans, New National Survey Finds <http://www.prnewswire.com/news-releases/mistletoe-or-legal-woes-holiday-parties-may-pose-legal-pitfalls-for-many-americans-new-national-survey-finds-75663547.html>