



Smoking At Work – Sending The Wrong Message?

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As a health club owner, what image do you want your gym to project? Clean, state of the art exercise equipment? People working hard to live up to their New Year resolutions? A general feeling of healthy living?

How about an employee lighting up a cigarette in the front parking lot? It is difficult to imagine any activity more at odds with a health club's fundamental message than smoking. This begs the question: can I, as an employer, do something about it? The answer: maybe.

Many American employers are beginning to take major action in this area. Initially, employers addressed the problem by designating their workplace a "smoke free" area. However, this largely proved to be a half-measure, and did not address all the problems that can arise from a workforce with smokers. Now, many employers – especially hospitals and those within the healthcare industry – are refusing to hire applicants who smoke or use other tobacco products. These employers have begun to test job applicants for nicotine use through pre-employment urine screens.

In addition to being inconsistent with a health club's image, smoking also has a significant impact on a company's healthcare costs. Typically, employees who do not smoke end up subsidizing those who do. According to the CDC, smoking costs the United States approximately \$193 billion a year in lost productivity and healthcare expenditures. As a result, employers also have a financial interest in curbing smoking among their work force. For all of these reasons, Forbes magazine recently suggested that "refusing to hire smokers" was one of the ten best ways that small businesses could lower healthcare costs in 2012.

While there are sound reasons for adopting such a policy, the decision should not be taken lightly. In fact, depending on the state, it may even be unlawful. While these federal and state laws must be considered before taking any action, they should not necessarily dissuade you from action.

In short, if employee-smoking is creating an image problem for your health club, or if it is increasing healthcare costs, you may be able to do something about it. Before doing so, however, employers should call their labor and employment lawyer to ensure that any action complies with applicable federal and state laws.

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