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#MeToo in Vet Med: Shining a light on sexual harassment and assault, *DVM360, ft. Keith Gutstein*

Keith Gutstein, Esq., Co-managing Partner in the Long Island office of Kaufman Dolowich & Voluck, LLP, was quoted in an article written by Portia Stewart for *DVM360 magazine on sexual harassment in the Veterinary Field.*

Veterinary professionals open up about their own experiences with unwelcome sexual advances, gender-related power plays—and downright creepiness.

Sexual harassment, defined

There are two types of sexual harassment: hostile work environment and quid pro quo.

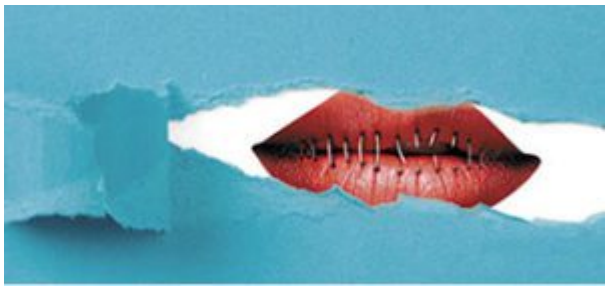
According to the EEOC, "Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted)."

Keith Gutstein, JD, of law firm Kaufman Dolowich & Voluck, says federal law looks at severe and pervasive conduct—situations where "the workplace is so permeated with ridicule or insults that it alters the terms and conditions of the employee's job."

The second type of sexual harassment, quid pro quo, is defined as this for that. "A male supervisor may say, 'Sleep with me and I'll give you a promotion,'" Gutstein says. "Or 'Go on a date with me and I won't fire you.'"

Employer quick guide

As a medical professional, you know it's better to prevent than to treat. Keith Gutstein, JD, of Kaufman Dolowich & Voluck, offers this checklist to help prevent sexual harassment issues in your practice.



- **Make sure your veterinary practice maintains an updated policy stating that discrimination and harassment are prohibited.**
- **Make sure there is a clear and easy-to-use complaint procedure, making it simple for someone to file an internal complaint if needed.**
- **Make sure the practice has a policy against retaliation.**

- Make sure investigations are conducted promptly and thoroughly when a complaint is made and that the practice maintains confidentiality to the extent possible.
- Make sure the complaint procedure involves one or more alternative receivers of complaints.
- Make sure the whole veterinary team undergoes sexual harassment training.

When the culture is to blame

The veterinary work environment plays a significant role in how discrimination and harassment play out. For example, say conversations amongst your coworkers in a hospital tend to turn a little blue. Everyone seems OK with the tone—until a new person joins the team. She doesn't feel comfortable with the raunchiness. You might be inclined to tell the new employee, "Lighten up! We're just having fun." But Keith Gutstein, JD, a partner at Kaufman Dolowich & Voluck in Woodbury, New York, who handles labor and employment issues, advises against this stance.

In fact, Gutstein confesses that his law practice employees tend to call him the "morality police." "When people talk around the office, the old water cooler or locker room talk, when I walk around, that tends to stop," he says. "People should know that it's unacceptable at work. … If somebody else overhears you, it may make them uncomfortable."

Business Owner Liability

"It is extremely, extremely important for employers to have a sexual harassment/discrimination policy—not just articulating that this conduct is inappropriate and unacceptable, but also articulating what should be done if someone feels they are the victim of discrimination or harassment," Gutstein says.

Next, he says, you should have a clear procedure that identifies who to contact if someone believes they are the victim of harassment—and who to contact after that. (See "How to report sexual harassment.")

"I like to have a secondary person in the policy to receive complaints," Gutstein says. "If the alleged harasser is the person who's supposed to get the complaints, the employee's not going to complain."

Other important guidelines? Make sure your policy makes it easy to report a complaint, and be sure it outlines a policy against retaliation. "You also want to make sure your employees and supervisors are trained, so if someone does make a complaint they know how to deal with it," Gutstein says.

Once you receive a complaint, Gutstein says, it's a good idea to contact an attorney with expertise in sexual harassment prevention and training and ask how to proceed.

"The most important thing is to act and not ignore," Gutstein says. "You do want to take the complaints seriously. You do not want to ignore or delay response. You may need to separate the employee and the supervisor or the two employees. You do want to investigate thoroughly. You do want to, at the end of the investigation, take prompt remedial steps."

Resist retaliation

So what does retaliation look like? Obviously getting fired is one form, Gutstein says. But retaliation can also involve demotion, cutting hours, giving unfavorable work assignments, passing someone over for a promotion, assigning all the difficult clients to one employee, or forcing someone to succumb to inappropriate advances.

"It can take a variety of forms. It's going to be something that has a chilling effect on the employee," Gutstein says. "Other employees are going to see that as a message: 'If you complain, this is what's going to happen to you.'"

The thing about retaliation, Gutstein says, is that retaliation against a complaint becomes a separate issue—something you can face a lawsuit for, regardless of whether the harassment actually occurred.

"If somebody complains on a Monday and they're fired on Wednesday, that's pretty good timing for a retaliation claim," Gutstein says. "You can sue for retaliation on its own, even without the underlying discrimination or harassment. As long as you have a good-faith belief and you complain, if you're retaliated against, you can sue."

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