

2011 Negley Awards for Excellence in Risk Management

Avoiding Wrongful Termination

Heritage Behavioral Health Center Inc., Winner of the Chairman's Award

For the majority of its existence, Heritage Behavioral Health Center was similar to any other behavioral healthcare organization. Services to its clientele were a priority. Direct supervisors communicated with staff on an as-needed basis, and in no specific format. Individual supervisors assumed the responsibility of hiring, training, disciplining, and terminating their own employees, resulting in inconsistent disciplinary actions throughout the organization. Few concrete practices were in place agency wide to back up our operational strategies.

Heritage responded by making significant changes in its communication and disciplinary processes. Heritage moved from "every program for itself" to "we are one". We developed communication methods to ensure that every employee in the organization heard the same message. We revised disciplinary processes to ensure that every employee in the organization was disciplined in the same manner for similar offenses. These changes affected every employee, regardless of the program area in which they worked. These two changes in operating practice were essential to reduce the risk of wrongful termination accusations.

Ensuring Effective Communication

Fundamentals of effective communication begin with policies, procedures and practices which are clear, concise and directly related to each employee and their job (addendum #1). Words on paper are just that - words on paper. Unless the words are reinforced by actions, they are worthless. Heritage's method of communicating its policies, procedures, practices and expectations were typical of an average behavioral healthcare center. Written correspondence and job descriptions were the primary means of informing employees of the rules. However, over the years, we recognized the critical role effective communication plays in ensuring staff know and understand what we were teaching them. We developed and implemented several unique strategies to ensure an effective communication process.

New Employees - A Supervisor's Role:

Communication begins on the first day of employment. Leaders are required to meet with their new employees daily during the first few weeks of initial employment to ensure understanding of the intricacies of the organization and their individual position. Supervisors explain requirements for trainings required to be completed within seven days of employment, and others that must be completed within 21 days, and are responsible for monitoring the progress towards completion each day. We track completion on the Orientation Schedule - Non-Classroom document (addendum #2) to ensure this takes place.

New Employees - Face-to-Face Meetings:

Communicating the basics of the organization - agency overview, funder regulations, confidentiality, billing processes, tours of facilities, job description review, and code of ethics/compliance - is the responsibility of the agency's expert in any particular area and occurs within an employee's first 21 days of employment. Face-to-face meetings with these experts add to the credibility and accuracy of the information delivered. Our experts include the Chief Executive Officer, Chief Compliance Officer, Director of Nursing, computer training specialists, and an individual's direct supervisor. Completion is verified in writing by the applicable trainer as to that area being complete and/or compliant (addendum #2).

New Employees - Classroom Setting:

On at least a quarterly basis, formalized mandatory classroom "new employee orientation" training occurs for the agency's newest employees. Over 80 hours of scheduled classroom setting education highlights specific, detailed information directly related to each employee's job within the organization (addendum #3). This comprehensive and in-depth curriculum includes trainings on the behavioral expectations of all employees, overview of the agency, specific details of individual work responsibilities, professional boundaries, funder regulations, compliance related expectations, infection control, nutrition and medication issues, emergency procedures, detailed documentation training, CPR and First Aid, and computer training. Over 15 different agency professionals have been communicating information in their area of expertise for over five years, ensuring that all new employees, regardless of position held, hear the same message.

New Employees - Testing:

Fourteen on-line training courses are assigned to all new employees, with additional courses assigned based on position held, as part of an individual's initial employment requirements. Standard topics include HIPAA/confidentiality, client rights, corporate compliance, cultural diversity, driver safety, sexual harassment, violence in the workplace, blood borne pathogens, infection control, and psychiatric medications (addendum #4). We have developed other specialized, job specific courses to address issues deemed relevant to a specific group of our staff, including six case management modules, five dual diagnosis modules, and treatment planning. We have set a high standard for our employees, who must pass each course with an 80% score or higher. Completion of all required testing with a passing score is a basic requirement for continued employment.

New Employees - The First Six Months:

We assign each new staff member to a veteran employee to job shadow for 1-2 weeks before they are allowed to venture out on their own. The supervisor then meets with the new employee at least weekly to review documentation of the services provided and to monitor the performance and general progress of their new staff. A Peer Review Committee evaluates each new employee's clinical documentation after four months of employment, identifying areas of compliance or areas for improvement (addendum #6). Staff are not allowed to document independently unless they have passed this Clinical Council documentation review, which is also a basic requirement of their initial 6-month training period. Following successful completion of the probationary requirements, supervision can be moved to a more routine quarterly basis, assuming no performance issues exist.

Continued Communication - Q&A Sessions:

An important piece of continued communication is the ability of staff to ask questions relating to issues that are relevant to their daily work. Heritage has developed a system of Q&A sessions (question and answer) for all clinical staff, where three times a month employees can bring questions to a group of peers and a qualified mental health professional for advice. The group reviews sample documentation for appropriate language and best practices for documenting a direct service. New employees are required to attend three of these Q&As during their first six months of employment. Non-probationary and supervisory staff also must attend these sessions, but at a reduced number, in order to remain up to date on the best practices in documentation of services. This type of communication between employees and experts in documentation issues ensures employees are continually made aware of the proper/improper way of composing client notes.

Continued Communication - Quarterly Supervision

Communication is not limited to new employees. Previously, meeting with an employee once a year at the time of annual evaluation was the normal practice, but left 11 months of the year with no regular systematic one-on-one interaction between supervisor and employee. Heritage has developed a formal supervision process, which includes at least quarterly meetings between employee and supervisor. Compliance issues are identified regularly, and any performance issues are addressed on a timelier basis before they are allowed to spiral out of control.

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All formal supervision is documented on a unique form we refer to as a “supervision log” which we have created to ensure consistency across the organization (addendum #5). The form includes mandatory sections (productivity, documentation, customer service, dependability, compliance concerns, and professional standards) and optional items (initiative, teamwork, caseload, etc.). Supervisors are required to address the mandatory sections of each session. A separate section is included for Staff Feedback which allows the employee to respond to the issues identified in the log and to communicate their professional growth and career goals on a regular basis. Any performance issues are documented, and a plan for improvement is developed. A separate Leader Supervision Log also includes issues of team productivity, vacancy management, team overtime usage, and review of supervisory logs with their own employees. Each log requires the signature of both the employee and the leader, and is retained in the supervisor’s personal file for each employee.

Heritage has put into place this unique system of routine communication between supervisor and employee that enhances the value of the supervision function and ensures an open line of dialogue at all times. Information contained in the quarterly logs is incorporated into an individual’s annual evaluation, giving a complete and accurate review of the entire year of performance. Nothing included in the annual evaluation should be a surprise to the employee as the issues have been communicated on an ongoing basis throughout the year.

Continued Communication - Between Leaders and/or Administration:

Should an employee change positions, or be assigned a different supervisor, the supervisory file follows the employee. This ensures that any performance issues are known to the new supervisor, and if the employee is under a disciplinary action, can be continued under that new supervisor. When an individual leaves the organization, these files are submitted to human resources to ensure that all information relating to a particular departing employee is located in one place and can be used if needed for any legal actions taken. These novel processes ensure ongoing communication between employee and agency experts, between employee and supervisor, and between different supervisors. Compliance issues are routinely identified and addressed. Written documentation is readily available should disciplinary action or termination be required.

Ensuring Consistent Discipline

Heritage’s disciplinary system is typical in its use of verbal and written reminders (referred to as warnings in most companies) being given for minor offenses. However, we have added two additional steps that we believe ensure consistency in the disciplinary process.

Discipline - Decision Making Leave:

This level of discipline generally follows a verbal or written warning that has not produced the desired behavioral change. Decision Making

Leave involves an individual being placed on administrative leave with pay for one full work shift. The purpose of the time off is for the individual to make a conscious decision as to whether they wish to remain employed by Heritage by committing to meeting the expectations of their job. This day is not intended as a punishment. It is intended as a day of reflection. We do not punish the employee or their family by the loss of income, but demand an employment decision following this day.

Discipline - Performance Contract:

An individual who chooses to remain employed after Decision Making Leave is placed on a Performance Contract - the final step prior to termination (addendum #7). It “defines performance expectations that will remediate unsatisfactory performance, restore performance to a satisfactory level, and maintain performance at that level”. The agreement outlines specific deficiencies, a timeframe for compliance, and consequences for failure to meet defined expectations. A timeframe is established between 30 and 60 days, with “termination of employment” the consequence for lack of compliance with the contract.

Discipline - Consistency and Coordination:

Consistency in disciplinary practices has historically been difficult to track due to decentralization of the function throughout the organization. Upgrading our process to improve consistency includes administration, monitoring and coordination in a common location - and in our case, that would be the Director of Human Resources. To ensure all employees are treated equally, this position trains supervisory staff, monitors and tracks disciplinary actions, and (with input of supervisor) prepares disciplinary documentation for employees. Templates are used for composing verbal and written reminders, as well as performance contracts, so that consistent documentation wording is used throughout the organization. Human Resources serves as the primary supervisory resource when disciplinary action is warranted, ensuring similar disciplinary action for similar offenses is given. This change has eliminated staff complaints of favoritism or discrimination between supervisors.

Discipline - Termination and Beyond:

When an individual is considered for termination, the HR Director is charged with the review of disciplinary actions taken, written documentation, and remedial efforts of the supervisor. Recommendations to the CEO for discharge are not taken lightly, and are only made when documentation supports the recommendation and are consistent with other actions taken by the agency. Following an employee’s termination, any claim for unemployment will be aggressively contested. Consistency in our disciplinary process has resulted in favorable decisions for the agency, substantially reducing financial costs.

Conclusion

Heritage has put into place a set of personnel, training, and supervision practices that have

accomplished two things. One, it has effectively improved communication so that all staff have a clear and documented understanding of what is expected of them regarding their performance and their professional conduct. Two, these practices have substantially improved the consistency and fairness in which supervisors across the organization impose disciplinary measures. As a consequence, Heritage has experienced the following outcomes:

- 1) Our average length of service for staff has increased by 88% between December 2000 and September 2010 - from 4.2 years in December 2000 to 7.9 years today.
- 2) The agency has had no complaints of age or race discrimination in over 10 years.
- 3) The relationship developed between our Director of Human Resources and local unemployment office staff contributes greatly to 90% favorable decisions for the organization yearly. Personal visits with unemployment office staff, being on a “first name basis”, timely responses, and thorough and complete documentation are implemented best practices.
- 4) We have realized a substantial cost savings as a result of a change from unemployment insurance premiums to payment of actual expenses. A 10-year comparison from FY2001 through FY2010 reveals an average savings of \$68,000 per year, or a total of \$680,000 saved during this 10-year period. We anticipate this cost savings to remain stable for many years to come (addendum #8).
- 5) Concerted communication efforts with staff to continually improve documentation of services have resulted in favorable audit results by our funders for the past five years. During this time, Heritage has averaged 92% compliance in 21 audits involving reviews of the clinical record with typically either no or minimal paybacks. Only once during this period did Heritage have a payback above hundreds of dollars, and this was unrelated to the quality of documentation.
- 6) Over 20% of our workforce consists of former employees who seek re-employment after having left for a “better opportunity”.

Perhaps the biggest benefit of all is that we have become an “Employer of Choice” in the area. ❖

About Heritage Behavioral Health Center

Founded in 1956 and located in Decatur, IL, Heritage Behavioral Health Center, Inc. is a (501-c-3) service corporation governed by a 15 member Board of Directors. Heritage is the largest provider of community-based behavioral health care primarily in the greater Macon County area, with an annual operating budget of just under \$10 million and approximately 180 staff. It offers a broad continuum of outpatient and residential services for mental illness and/or addictive disorders to about 7000 clients each year, with thousands more receiving prevention and crisis intervention services. Accredited by CARF. For addendums and additional information, contact: CEO Diana Knaebe 217-362-6262 or dknaebe@heritagenet.org.