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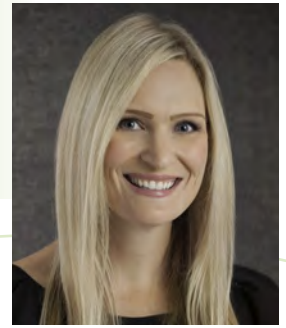
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## Healthcare & Wellness Integration

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# Disability and Discipline: A Case Study

Employee discipline and disability can be complicated issues, and even more so when they are combined. The management, however, can be standardized and straightforward.

It's important to understand that both roads lead toward employee performance. Whether you are on the route of discipline, or entering into the disability interactive process, the goal and needed outcome is the same: for performance standards to be met. Remember, if an employee cannot meet performance or safety standards, they will be separated — medically or through discipline.

## Employee Case History

During counseling for performance, Ms. Smith indicated her deficiencies were due to a psychological disability and provided a medical note. The employer paused disciplinary actions and started the disability interactive process.

The first step for any interactive process is to obtain clear medical information. The employee's personal medical provider was asked to complete an in-depth questionnaire to help the employer understand if Smith had a serious medical condition impacting her ability to meet performance expectations. The employer did not request protected medical information, but clarification on her qualifications under the Americans with Disabilities Act (ADA) and a listing of work restrictions or functional limitations. The provider

declined to complete the questionnaire.

At this point, the employer had two choices: conclude the interactive process, as the employee's claims were not substantiated, or proceed and use another doctor to clarify restrictions or limitations. The employer directed her to attend a third-party fitness for duty (FFD) examination. The FFD examiner determined while some of her past performance deficiencies were the result of a past medical condition, she was not disabled at the time of evaluation and had no work restrictions.

A reasonable accommodations meeting was held, and the employee agreed she was not disabled. The parties agreed that as she was now unrestricted, she could resume work. Her interactive process was concluded, and her disciplinary process resumed for areas not affected by her past medical condition. She was informed that now her performance would not be related to a disability, and the tool of discipline would be used if needed. Over time her performance continued to worsen. The employee then informed the employer her performance was due to a different disability — a learning disability — and requested accommodations for this, providing a new medical note.

Once more, the employer halted the disciplinary process and restarted her interactive process. The employer scheduled a second FFD evaluation in response to this new accommodation

request; an FFD referral service was used to locate a medical specialist with appropriate skills and experience for this examination. The frustrated employer took a deep breath and continued. The FFD questionnaire focused on how the disability might or might not impact her ability to meet performance expectations.

The second FFD examination provided documentation for the conclusions that Smith: 1) did not have a disability; 2) was unrestricted; and 3) that her specific performance issues were not related to a medical condition but likely related to her intellectual abilities to keep up with the changing profession.

In a second accommodations meeting, Smith stated she understood the FFD results, and had no additional comment. The interactive process was then concluded for the second time. The disciplinary process resumed, having completely ruled out disability as a reason for not meeting performance standards, and she was ultimately terminated for performance deficiencies. One year passed after this action, no appeal occurred and her statute of limitations exhausted.

Though this process required financial expenditures on the front end, it ultimately saved significant time and cost. It also ensured the employer used the right process to manage performance issues, doing its due diligence by both the employee and the company.