



Personnel Management

Continuing Education: Who Pays What?

By Tim Twigg and Kathy Asted

Continuing education is not only an important part of a well-run dental practice, but it is often mandatory for maintaining licenses and/or certifications for many of the staff. As such, questions naturally come up regarding attending seminars, workshops, and trainings. Questions like: is attendance considered work time, who pays the expenses, what about travel time, or who's responsible if staff is attending voluntarily?

The answers to these questions and a myriad of others related to CE, land in the area of employment law compliance. Since employment law compliance is not on the "hot topics" list in dental school (in fact is not even part of the curriculum), most dentists know very little about the subject. Yet, not knowing can be financially costly and a major source of stress for doctor and staff.

Case in point: *A doctor took his staff to Las Vegas for a seminar. He paid for travel expenses and tuition, but he didn't pay for the staff member's meals or their time at the seminar. The staff complained to the Labor Board about not being paid for their time while attending the seminar and not being reimbursed for meals. The doctor had to pay back wages, including overtime, plus penalties of \$24,000.*

Not only do problems develop through lack of knowledge, but this lack of awareness often leads to erroneous language turning

up in dental office policy manuals. Here are a few examples of statements from policy manuals that are out of compliance and would set the doctor up for problems:

"Hygienists are excluded from receiving compensation for all CE courses. They may extend work hours to make up for time out of the office."

"All staff may be required to attend specific training. Weekday training will be reimbursed based on 60% of staff's wage. For weekend training, the course will be paid by the office but there will be no salary compensation. Refusal to attend would be consideration for termination."

"Attending these meetings shows an interest in improving yourself professionally and is looked upon favorably."

The first step in addressing CE related issues is to divide CE into one of two categories. Category number one is CE that is required to maintain licenses and/or certifications that are part of the job requirements, i.e. hygiene license, x-ray license, or valid CPR card. The second category is all other CE.

While doctors are not obligated to pay for category one type CE, this should be stated in policy form and all staff should be informed as such at the time of hiring.

It is the proper handling, or not, of Category two type CE that is the source of potential problems and the focus of this article.

Payment of wage and hour issues related to seminar attendance primarily comes under the jurisdiction of the Federal Labor Standards Act (FLSA) and individual state law. It is important to check with your state regarding specific requirements.

Pay For Time Attending A Seminar

Hours, while attending seminars, trainings, or meetings, are viewed as hours worked and therefore are compensable. If the total hours worked (regular hours plus seminar hours) exceed the overtime trigger point for your state (40 hours in a week for most states), then overtime is to be calculated and paid on a weighted average method. Note that while Minnesota's overtime trigger is 48 hours in a week, the more restrictive FLSA 40 hour trigger is one that must be followed in Minnesota.

Pay For Time Traveling To A Seminar

For attendance at seminars, trainings, or meetings, where the travel time is during normal work hours, then the travel time is also compensable. If the travel time is outside of normal work hours, and the mode of transportation is *not private*, then travel time does not have to be paid. If the mode of transportation is private, i.e. driving one's own car, then the time is always compensable.

Note: Travel time during normal work hours is not based on the day of the week only the hours. So if normal work hours are 8am to 5pm and travel takes place on Sunday between 8am and 5pm, then the time must be paid.

Travel Related Expenses And Course Related Expenses

In most states, for attendance at seminars, training, or meetings, travel-related expenses (airfare, hotel, meals, etc.) and course expenses (tuition, materials, etc.) are negotiable as to who pays.

As you have learned, while time attending seminars and travel time to and from seminars are compensable, it need not be compensated at the same rate of pay. Employees who are not performing their regular duties may be paid at a "Different Work Rate Capacity." You should follow these guidelines for use of different rates:

- The hourly rate must equal or exceed the minimum wage requirements.
- Each employee should sign a form agreeing that any paid travel time or time attending a seminar will be paid at the "Different Work Rate Capacity" established for travel and seminar attendance.

To prevent misunderstandings regarding what expenses will be paid; you should make your decisions and communicate them to your staff *prior* to seminar attendance. You should also have a signed form which clarifies what will be reimbursed for the seminar. Be sure to cover items such as travel, meals, (type, what days, daily allowance or amounts), accommodations, tuition, rates of pay, and supplies.

Again, be mindful of overtime issues that may come up relative to CE. For most states, if the hours worked during the week, plus the seminar hours and/or travel hours exceed 40 hours for the week, then all hours over 40 hours are to be paid at the overtime rate. The overtime rate is determined by a weighted average calculation; it is not simply the seminar/travel rate times 1.5.

Since continuing education is such a vital part of a dental office, consider budgeting a specific amount yearly for seminar attendance. Remember to include in this budget travel pay, seminar costs, wages, accommodations, meals and supplies.

Lastly, often the topic of "voluntary attendance" comes up related to seminars, classes, and workshops. If attendance is voluntary, held outside of an employee's regular working hours, is not directly related to the employee's job, and no productive work is performed, then hours are not counted as hours worked.

A seminar is directly related to an employee's job if it is designed to enable the employee to handle the job more effectively. If the training teaches the employee how to do a new job, teaches a new skill that would NOT improve the handling of the present job, or upgrades the employee to a higher skill, but isn't intended to make the employee more efficient in the present job, it is not considered directly related. As you can see voluntary attendance alone does not justify considering the hours as non-compensable.

Conclusion

Due to the importance of continuing education in today's dental practice, it becomes equally important for practitioners to be aware of the compliance issues regulating seminar pay, travel time, and related expenses. Failure to be compliant with employment law issues can result in a severe monetary penalty imposed by the Department of Labor.

Author Note: Tim Twigg is the President of Bent Ericksen and Associates. For over 25 years the company has been the leading authority in human resources and personnel issues, helping dentists successfully deal with the ever-changing labor laws. Tim is a member of the Academy of Dental Management Consultants, the Society for Human Resources Management, and the National Speakers Association. To receive a complimentary copy of the company's quarterly newsletter or to learn more, contact them at 800-679-2760 or at www.bentericksen.com.

Kathy Asted of Asted Consulting Associates is a certified HR Compliance Consultant representative for Bent Ericksen & Associates. Additionally, Ms. Asted's company Asted Consulting Associates provides practice managing consulting services. She is a member of the Speakers Consultants Network. Kathy can be reached at 763-755-9627.