

A Smelly Situation!

By Toni Talbot, SPHR

Question: *One of my employees has come to me and advised me that she has recently been diagnosed with asthma. One of her triggering events for an asthma attack is fragrance, such as*

perfume, cigarette smoke, etc. She has requested that I try to eliminate these smells from the workplace. Am I obligated to provide her with a fragrance-free work environment? I have another employee who often wears perfume. It isn't strong, but it is noticeable. What am I supposed to do? Should I tell my employees that they cannot "smell?" Do I tell patients they can't use perfume?

Answer: Ah, quite the quandary. You have a number of issues here. First let's take the employee with the asthma. Do you have an obligation to provide this employee with a "fragrance-free" work environment? The answer just may be "yes"; at the least, you may be expected to provide a good-faith effort to make it so. Asthma may be considered a disability under the law and this may make your employee protected under the Americans with Disabilities Act (if you have 15 or more employees) and/or the Michigan Persons with Disabilities Civil Rights Act. She is protected if it is determined that her asthma impacts a major life function. I think it could be argued that breathing is a major life function. So, let's assume, for the sake of this article, that she is protected under either the ADA or MPWDCRA. You now need to determine if her request for you to try to create a fragrance-free work environment a reasonable accommodation. Essentially, does creating a fragrance-free work environment cause an undue hardship to your practice?

This could get very sticky. To what degree must you be expected to go to provide this environment? I do not think it is feasible to expect a 100 percent fragrance-free environment, but you can certainly implement policies that could significantly reduce the employee's potential exposure to fragrances. How do you create a fragrance-free work environment? It begins with a policy. You can develop a practice policy that, due to the health needs of patients and employees, your practice is a fragrance-free

environment. For example, your policy can read: "For consideration of those individuals who are fragrance-sensitive we ask that patients and employees refrain from the use of perfume, cologne, scented lotion, etc. In addition, patients and employees should avoid situations where they will retain the smell of cigarette, cigars, or pipe." This policy could be posted in your practice and communicated to patients as you communicate any new patient policy.



Your greatest control is with your staff. This fragrance-free policy should be stronger for employees, by adding a statement that employees may be disciplined for failing to comply.

I know that all this may seem extreme, yet it's a fact that many illnesses, such as asthma and migraine headaches, can be triggered by scent. By putting in such a policy you are not only considering the needs of your employee but the needs of your patients. I'm confident there are patients who are also fragrance-sensitive.

Again, as with any policy, you must be willing to address those who fail to comply. Even the employee who wears a lightly scented cologne needs to refrain. How you deal with patients who do not comply with this fragrance-free policy may be another matter. You may need to discuss this concern and explain the reason behind the policy with the noncompliant patients.

If you implement and administer this policy from the perspective of the health and well-being of your patients, I believe you will have better employee compliance and you will not single out the one employee with the illness.

Must you implement this type of policy? Well, maybe. Is it a good idea? Could be, both for the sake of the employee with asthma, and for patients who have medical conditions that are triggered by fragrances. ♦

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