

# HOT SHEET

Volume 10, Issue 3  
March 22, 2023



Full-Circle HR

## HR Trends:

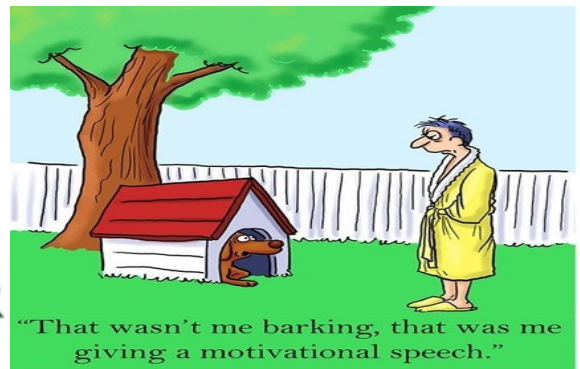
- Recently the National Labor Relations Board (NLRB) over-ruled precedent when they decided that including non-disparagement and confidentiality requirements in a separation agreement violates the National Labor Relations Act. It is important to consult an employment attorney before using such an agreement.
- According to a Gallup poll 7.1% of Americans identify as LGBTQ, and according to a 2021 McKinsey Global Survey, 1 in 4 LGBTQ employees are not broadly out at work.
- To keep older workers from retiring some employers are offering them flexibility and remote work opportunities. With that, financial need, and the desire to continue to contribute, older workers are opting to stay. It is estimated that the percentage of older workers in the workforce will rise from 33% in 2020 to 40% in 2030.
- According to Jefferson Health, healthcare cost savings due to telehealth's reduction in ER and urgent care visits is estimated at \$309 to \$1500 per incident.
- An Insight Global survey reports that almost 80% of U.S. workers fear they will lose their jobs if there is a recession.

## Ending the COVID Health Emergency

President Biden has declared an end to the COVID Public Health Emergency (PHE) effective May 11, 2023. Right now COVID tests and vaccines have been fully covered by the government and by insurance companies. There have also been extended enrollment periods when insurance coverage has been lost, as well as fewer restrictions for who qualifies for and can stay on Medicaid coverage. When the PHE ends, these too may end. Insurance companies may or may not change what they cover. Employers need to decide what they are willing to do in case they do.

The first step is to review health plan terms for COVID-19-related coverage and review benefits

terms or offerings made under temporary pandemic relief laws and guidance.\* Tests may no longer be covered by insurers. This means that employees may be less likely to test if they have to cover the cost themselves. COVID has not gone away. If they don't test they may come to work and infect others. You will want to take this into consideration as you decide how you will handle this. Vaccines may well be covered, but may likely be covered as other vaccinations and may not be covered the same way or at all with out-of-network providers. Cost sharing may also be a factor. Employers also will no longer have relaxed restrictions on telehealth and virtual care. Under the PHE, organizations were allowed to extend those services to workers



not eligible for major medical plans, such as part-time or temporary workers. As employees fall out of Medicaid, they may now choose to enroll in employer plans and the grace period they have to make this decision will be shorter (likely this will be delayed until July 11). Extended time to catch up on COBRA payments will also go away.

Consult with insurers and third party administrators. Talk with them about how you want to handle the end of the emergency and get clear with them about what changes you need to make to your plans and when you need to make them by to effect those intentions.

It is also vital to start communicating with your employees about the changes

and how it will affect them. They need to know what their extra costs will be and that they will not have the same amount of time to make changes or COBRA payments.

Two helpful websites with further information are: <https://www.mwe.com/insights/how-employers-should-prepare-for-the-end-of-the-covid-19-national-and-public-health-emergencies/> and also <https://telehealth.hhs.gov/providers/policy-changes-during-the-covid-19-public-health-emergency/policy-changes-after-the-covid-19-public-health-emergency>.

*There are only two ways to live your life. One is as though nothing is a miracle. The other is to as though everything is a miracle.*  
— Albert Einstein

## Commonsense Ways to Avoid Sexual Harassment

Avoiding sexual harassment is not just a way to prevent the threat of litigation but, more importantly, it fosters physical and psychological safety in the workplace. The first step an employer can take is to assure that micro-infractions are not over-looked so that they add up and begin to define your culture. The vast majority of employees who are accused/guilty of sexual harassment didn't intend to offend. Support your employees by being clear about what is and is not acceptable behavior and assure that they feel safe in calling it out when the line is crossed with them or another employee. Offer employees a list such as:\*\*

1. Rely on courtesy rather than contact. Verbal praise and encouragement are more effective than hugs or pats on the back.
2. Ask yourself if you would say this in front of your mother or child.
3. Consider what power you may hold over the other person and whether it would prevent them from being honest with you about how your behavior impacts them.
4. Compliment on merit and not personal appearance.
5. Speak up when something offends you—attribute it to the behavior and not the person. The best way for someone to get the message that their behavior is unwelcome is to tell them in the moment. A phrase as simple as, "This behavior

makes me uncomfortable. Please stop." 6. If someone calls you on your behavior, don't just apologize, let them know you will not let it happen again and make sure it doesn't. 7. Speak up when you see an inappropriate behavior. 8. Avoid invading other's personal space by leaning over their desk, standing too close, or blocking their way.

The majority of complaints could be resolved by employees feeling they are in a culture in which they can say when a behavior makes them uncomfortable. As a leader, provide a sense of safety when someone speaks up. Be a role model if someone says, either with words or body lan-

guage, that they are uncomfortable with something you have said or done. The most effective way to establish this in your culture is to judiciously not deter self-help.

If you do receive a complaint and begin an investigation, avoid drawing conclusions and labeling behavior in legalistic terms. Sexual Harassment is a legal term. Describe the behavior and investigate that. This approach can destigmatize the process and put people at ease, as much as possible, while you objectively investigate. Once complete, describe the behavior, the impact, action to take, and what policies/practices (if any) have been violated.

\*SHRM, *How Employers Should Prepare for the End of COVID-19 Emergencies*, Mayer, Kathryn, March 6, 2023.

\*\* Coach and Practice Leader, *Tips for employees*, [www.fris.org](http://www.fris.org).

^ SHRM, *3 Commonsense Tips to Prevent Workplace Sexual Harassment*, Janove, Jathan, JD, March 6, 2023.