"DOCTOR! Go for a course in HR Management"

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This article is based in part on an MMed (FamMed) assignment submitted to the Department of Family Medicine and Primary Health Care, Medunsa.

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Keywords: family medicine principles, practice management, staff management, personnel management, human resources management

Abstract

A key principle of family medicine is the management of resources. Human Resource Management (HRM) underpins other principles of family medicine. It is not only the doctor but also the staff around him or her who enables and responds to the patient experience.

South African private general practitioners struggle with staff management within an increasingly complex and regulated environment. Simple approaches, documents such as employment contracts and codes of conduct, and checklists highlighting statutory and best practise requirements can ensure good HRM.

People-centred HRM contributes to a patient-centred practice. It can also address skills and incapacity in a fair manner, keeping the practice within the law and partnering in social transformation and primary health care delivery.

(SA Fam Pract 2004;46(8): 5-8)

Introduction

Human Resource Management (HRM) is essential in South Africa, with its highly stressed context of an increasing health burden and change in health systems. Skill in HRM are of benefit to private general practitioners (GPs), doctors involved in managed care or group practice, as well public sector doctors. Good HRM facilitates many of the foundational principles of family medicine.

GPs often recruit staff by placing a sign outside the practice or asking existing staff to find someone, and then employ them after a 10-minute interview with no real plan. "Cheap and easy! I can just train them myself as I go along" is often the sum of a new doctor's HRM. This was the experience of one of the authors when he set up private practice in a rural town in 1991. This style continued when an exiting staff member recommended a cousin as a new addition to his two-member staff in 1995. It was, after all, "just temporary".

When incorrect medical aid details multiply and bad debts build up, it becomes expensive. In this case, the doctor never wrote anything down regarding the troubled relationship. The state of employment just carried on. The doctor simply did the work himself or passed it on to others in the surgery. Poor attempts at training and communication or simply working around the problem can all lead to an explosive situation. "It is just so difficult – seeing patients and then dealing with the daily pain of management" is an oft-repeated lament. Bringing one's spouse into the practice, a common solution, can cause even greater problems

The ultimate solution seems to be to "just fire her!". However, poorly thought out dismissals, as occurred with this member of staff, can spiral into guerrilla warfare. Crises can occur with union meetings being demanded and the doctor being threatened with the Commission for Conciliation, Mediation and Arbitration (CCMA). Moral outrage helps little against union statements such as "you need a management course" and "you will eventually pay". It is too late to learn about HRM when relations are soured beyond repair. With threats of "boycott" and daily "labour incidents", this doctor closed his practice and relocated to another town in 1998.

This article arose from the above experience and describes what one doctor learnt in attempting to improve his HRM as he set up a new practice.

Human resource management for a small practice

HRM can be daunting when one starts with a low skill and knowledge base; it is nothing close to the traditional work of the GP. Yet HRM in a small business in South Africa can be simple.[1]

The best approach is through proactive leadership, emphasising motivation and team work – very basic skills for a family practitioner. This must be combined with the strictness of simple managerial systems. Business has to be planned, and HRM is an important part of the planning. Muddling along – inconsistently and emo-

tionally – is a recipe for trouble. Keep it simple and in writing.

A good place to start a system is with a plan. Reflect on the practice, its stakeholders and the environment of healthcare. These should be written down as one-year and five-year plans and reviewed every year.

Staff members are essential stakeholders of a practice, especially in achieving its purpose of patient satisfaction and quality patient care. Take some plans to a short staff meeting once or twice a year and get the views of the staff. Shared plans can have a big impact on HRM. Implementing any changes is the employers' prerogative, but the best service will come from people who feel secure and motivated.

The process of ensuring that the right people are doing the right jobs starts with establishing what work one requires to be done, based on the plan. It is then necessary to formulate a division of duties along job lines, depending on resources and competencies.[2,3] Restructuring a practice should also start with this and must involve the staff.

A detailed job description is a clear first step before recruitment. Recruitment starts with wide, clear advertisement and personal contact, in which applicants complete a standard application form. If there are a large number of applicants, they can be short-listed for interviews. Simple scoring according to the job description can be done in both the short-listing and the employment interview to provide objective evidence for decisions taken.

Discrimination

Whether selecting new staff or reorganising existing staff, adherence to anti-discriminatory legislation is important – not just legally but also to ensure the client responsiveness of the practice, as a business tool, and to enhance cross-cultural family practice. The Bill of Rights in the Constitution of South Africa, Act No 108 of 1996, Section 9, enshrines equality and non-discrimination. In terms of the Employment Equity Act, No. 55 of 1998 (EEA), discrimination in any employment (even indirectly) in terms of race, gender, sexual oreintation, pregnancy, marital status, family responsibility, ethnic or social origin, colour, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth is prohibited. Unjustified psychological and medical testing (including for HIV) is not allowed.

It is not unfair discrimination to take affirmative action measures consistent with the purpose of the Employment Equity Act, including in the selection of job applicants. Practices with annual turnovers greater than R5 million are obliged to register as designated employers, with more stringent requirements.

Employment conditions

Employment conditions must be reflected in an Employment Contract. The Basic Conditions of Employment Act, No 75 of 1997 (BCEA) details the required information. Some of the relevant elements are outlined below:

a) Hours: Employees may work a maximum of 45 hours a week with no more overtime than 15 hours a week, paid at one and half times normal salary, and may not work longer than 12 hours a day, as per the Basic Conditions of Employment Amendment, No 11 of 2002. The employee cannot work more than five hours continuously without an hour meal break (or half an hour by written agreement). An employee may only perform those duties during a meal break that cannot be left unattended or performed by another employee. There must be 12 consecutive hours of rest in a day or 36 consecutive hours in a week (including Sundays) between ending and recommencing work, e.g. a staff member who works till 1 pm on a Sunday must get the Monday off. Premium pay for work on Sundays is removed by the Amendment unless by agreement. Night work (between 18.00 and 6.00) is only allowed if "transportation is available" and the employee is compensated by the payment of an allowance or by reduction of working hours. Work on public holidays is done at least at double normal pay.

b) Annual leave: Employees are entitled to 21 consecutive days leave after 12 months employment. This must be granted not later than six months after the end of the annual leave cycle. Occasional leave may be taken and deducted from the annual leave at the employees' request or by agreement. Employees are entitled to additional days paid leave if public holidays fall in annual leave taken. Annual leave must be taken and may not be paid for, except on termination of employment.

c) Sick leave: An employee is entitled to sick leave equivalent to the number of days normally worked during a six-week period, per 36 month work cycle, or one day for every 26 worked in the first six months. The employer may withhold payment if a medical certificate is not produced on request.

d) Maternity leave: An employee is entitled to four consecutive months of maternity leave. During pregnancy and six months after birth, the employee is entitled to alternative employment if work (including night work) poses a danger to her health or safety or that of the child.

e) Family responsibility leave: An employee is entitled to three days per annum of family responsibility leave for the birth or illness of children, or the death of a spouse or life partner, parent, adoptive parent, grandparent, child, adoptive child, grandchild or sibling (with reasonable proof provided).

f) Notice of termination of employment: The notice period is one week in the first six months of probation, two weeks for the rest of the first year and four weeks thereafter.

g) Remuneration: The salary must be paid in sealed envelopes a maximum of seven days after completion of the work period (usually monthly), with a payslip indicating hours, amounts and deductions.

The job description should be attached to the contract. There must be a clear written code of conduct indicating desirable and undesirable behaviour, with disciplinary and grievance procedures as part of the employment contract. This step-by-step procedure should lay out counseling, verbal warnings and written warnings, leading up to hearings and appeals. This ensures that a dismissal on substance does not fail due to poor procedure (sub-

stantive vs. procedural issues, in labour jargon). An employer must display a statement of employee rights under the BCEA at a place in the workplace where it can be read. A copy of all these documents, signed by both parties, should be given to the employee and filed in the employee's file.

The process of introducing a person into the work environment should include a clear induction process discussing all these documents over a short induction period, e.g. over one month, within a longer six-month probation period.[4]

Skills development

Skills development should be an integral part of a family practice, in terms of lifelong learning for both doctors and other staff. The Skills Development Act, No 97 of 1998 lays out a mechanism to encourage this for all staff. The Skills Development Levies Act, No 9 of 1999 requires all those employers paying PAYE or having annual payroll in excess of R250 000 to pay a Skills Development Levy (SDL) of 1% for all staff on the payroll. Employers need to choose a Sector Education and Training Authority (SETA), which for doctors would usually be the Health and Welfare SETA (HWSETA).

It is worth their while for doctors to register for SDL, even if they are not required to pay levies. The Employers' Guideline to the Skills Development Levy issued by the Department of Labour encourages this. The most useful benefit is that grants may be obtained for one year learnerships as well as for shorter skills programmes. The HWSETA focus is the Ancillary Health Care Worker Learnership. There is also the further tax benefit, with an additional 70% of wages up to R17 500 tax deductible for existent workers and 100% of an allowance up to R25 000 for unemployed people taken on for training. The benefits are immediate, with extra hands, skill development at no cost and partnerships. There are 27 SETAs with a multitude of shorter skill programmes – from telephone management to HIV/AIDS counseling.

Other laws

All employees need to be registered for PAYE, UIF and SDL. The Guidelines for Employers for the relevant tax year, issued by the South African Revenue Services (SARS) annually, guides these deductions. The deductions should be sent monthly using the EMP 201 form obtainable from SARS.

The following additional laws also impact on HRM:

1. The Unemployment Insurance Act, No. 63 of 2001 provides for an Unemployment Insurance Fund (UIF) deduction of 2% of salary divided evenly between employer and employee. At present, this is up to a maximum amount of R8 099 of salary per month. This UIF acts as insurance against unemployment after two weeks of continuous employment. The blue card (UI19), completed by the employer, six payslips and a letter of service are handed to the employee on leaving employ to enable him or her to collect benefits amounting to a maximum of 60% of the last salary. The duration of benefits is one day for every six days worked, up to a maximum of 238 days benefit for four years worked. These benefits also apply to disabling illness, maternity and for dependants after the death of an employee.
2. The Income Tax Act, No 58 of 1962 provides for deductions from the employee's salary, as per tables in the EMP10 published annually after the Budget presentation. Based on EMP 10, Vol 44, 2004, those earning less than R30 000 per annum pay no tax. Standard Income Tax for Employees (SITE) is deducted for employees earning less than R60 000 per annum. Pay As You Earn (PAYE) is deducted from those earning more than R60 000 per annum. All employees paying SITE or PAYE must be issued with an IRP5 income tax certificate annually. If no employee tax was deducted, then an IT 3(a) income tax certificate must be issued to the employee. A copy of the IRP5/IT3(a) must be kept and submitted to SARS with an IRP501 reconciliation. Allowances and fringe benefits in the EMP 10 are worth exploring for tax deductibility and improved employee remuneration, e.g. travel allowances and provident funds/medical aid.
3. The Occupational Health and Safety Act, No 85 of 1993 obliges employers to reduce hazards in the workplace. Doctors must ensure that their employees are trained and supervised in good practice. Employees must take reasonable care. The Compensation for Occupational Injuries and Diseases Act, No. 130 of 1993 provides for any injury or disease at work, e.g. pulmonary tuberculosis and needlestick injuries to be compensated for through the Compensation Fund. All employers must register and then submit annual returns containing all employee earnings by 31 March for the Director-General to assess the amount payable.

Discipline, dismissal and disputes

The Labour Relations Act, No 65 of 1995 (LRA) governs ongoing labour relations. The key issues remain the employment contract, the code of conduct, disciplinary procedures and written records of ongoing discipline with adequate corrective action. Written correspondence with exact times and dates, provision made for translation and opportunities for representation are required when stronger action is contemplated (see below). Keeping written notes in a personnel file is vitally important – whether for staff meetings or individual employee discussions. Documented supportive counseling which repeatedly fails can be a compelling reason for dismissal. It is useful to record key points of discussions, mutual conclusions and agreed upon corrective steps, as natural elements of good management, in the staff book.

Dismissal is possible for incapacity or in-discipline and is relatively easy if fair procedures are followed transparently and step by step. Doctors need to be on guard against automatically unfair dismissals, such as dismissal for pregnancy or a legal strike action. Dismissal for serious misconduct includes gross dishonesty, willful damage to property, endangering safety, physical assault and gross insubordination.

NEDLAC's Code of Good Practice Regarding Dismissals based on Operational Requirements, Schedule 8 of the LRA states that the retrenchment of existing staff requires fair consultation. When retrenchment is inevitable, dismissal is on the principle of last-in-

first-out (LIFO), as well as skills and qualifications. Retrenchees should be offered alternative employment if possible, otherwise a severance retrenchment package of one week per year completed plus notice pay applies. Severance pay is waived if the employee unreasonably refuses the offer of alternative employment. Retrenchees should get preference in re-employment.

The LRA provides for a negotiated style of labour dispute resolution. An employee is entitled to an internal disciplinary process that includes fair written notice (three to seven days). The employee must be offered an interpreter and the opportunity for a fellow employee to represent him or her. A union official may represent the employee provided there is proof of prior membership. The initial disciplinary process can be managed by a doctor in his or her practice without a lawyer or outsider being present. The CCMA allows for disputes to be referred to it in the event of internal processes failing. Conciliation takes place when the parties are given an opportunity to settle with an impartial commissioner assisting in fact finding, mediation and making a recommendation. Lawyers are not allowed to represent employers. Employees must have been a member of the trade union before the dispute for the union to represent them. Arbitration takes place when a commissioner sits to proclaim on the matter as a mini-court. This may involve lawyers.

The Labour Relations Amendment Act, No 12 of 2002 allows for joint conciliation-arbitration by the CCMA being facilitated on one occasion. Unresolved matters may then be referred to the Labour Court.

Conclusion

In the experience described at the start, the doctor represents himself at the mediation hearings held by the CCMA. The experience of the legal issues enriched him, but the cost was enormous – lawyers, traveling and closure of the practice for days. The matter was unresolved after mediation, referred to arbitration and finally resolved in the Labour Court in 1999. Learning from this, the doctor improved his HRM through a more deliberate search for appropriate staff, as well as by using standard documents as templates, e.g. employment contracts, a code of conduct, pay slips, etc.* These are simple to implement, suitable for a small practice and in safe compliance with the law at all times. Any discussions are noted and filed with each staff member's documents in a personnel file. Small general meetings are held regularly to discuss the practice, as well as for positive purposes such as celebrating birthdays.

One needs to be meticulous about labour management so that employees do not have the perception that "the doctor wants to get rid of us". If this happens, staff meetings held to try to build a common vision are transformed into battlegrounds. It is far better to tread carefully.

Investing in skills in Human Resource Management is worthwhile. It can assist a family practitioner to create a good family practice. It requires leadership and a whole new approach.[7] It can lead to team work with a common vision amongst staff. It pays dividends when a practice is successfully characterised by the logo on the door, "WE care".

*All the documents mentioned in this article are available on the website www.edistrictnews.com, under "HRM".

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