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Hi, it's Dr. Weitz. Thanks so much for joining me for this episode of the private medical practice academy. Today, I want to talk to you about the family medical leave act, otherwise known as FMLA. If you're an employee, being able to take advantage of FMLA may be incredibly beneficial, but when you're the employer, like when you own your own practice, you need to understand FMLA and everything that goes along with it. First of all, FMLA allows as employees to take a leave of absence for up to 12 weeks for medical reasons or family reasons. The first thing I want to point out to you is that FMLA does not say that the employer has to pay the employee during those 12 weeks only that they have to allow the employee to take the leave of absence.

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Second FMLA is only applicable to eligible employees. Who've worked at a company for at least 1,250 hours during a 12 month period. When employees meet this eligibility, they're able to take this leave of absence if necessary and be guaranteed that they're going to have a job when they return. However, not every business must provide their employees with FMLA. The law only requires employers who have 50 or more employees working at least 20 hours per week to comply with FMLA, realistically many smaller medical practices.

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Aren't legally required to provide their employees with FMLA. That said, you'll likely discover that your employees are under the impression that they're entitled to FMLA regardless of the size of your practice. This is why you need to have clear cut policies about leave and what your practice offers, even if you're not obligated by law to offer FMLA. So to start with, you need to develop comprehensive policies. FMLA sets, numerous coverage and eligibility rules. Businesses who have those 50 employees have to provide the 12 weeks of unpaid leave a year to eligible workers.

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The employees who work at a location where the business employees, at least 50 workers within a 75 mile radius are eligible. If they work at least 12 months and again, 1,250 hours during the previous 12 month period. So what happens if you have fewer than 50 employees, you can still adopt the FMLA policies and say that you will hold an employee's job for up to 12 weeks. You can define what employees are eligible for. Leave. For example, you would likely only offer this to full-time employees. You could offer it to employees. Who've completed more than one year of service.

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You can state what circumstances are eligible, like for example, treating their own illness, or if they need the leave to take care of a sick relative, or to have it, baby, you can be as employee friendly as you like, but you need to have a written policy that applies to all employees. And you need to have this as part of your employee handbook. This is going to protect you against litigation. I want you to understand that, yes, you have fewer than 50 employees. Yes. You're not obligated to follow FMLA, but you need to have a policy for

what you're actually going to do.

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And then you actually need to follow that policy. If you decide to offer some version of unpaid leave, you're going to want it to find the 12 month period in which the employee can access it. For example is the 12 month period defined as a calendar year or any fixed 12 month periods such as a fiscal year or the period starting with the employee's anniversary date. You could also define it as a 12 month period, starting from a date that the employees leave begins, or you could use a rolling 12 month period, measured backward from the date that the employee uses any leaf.

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The issue here is that if you don't define it, then employees can measure the leave period in whatever way is most beneficial to them. I can tell you this from firsthand experience, one of my employees had multiple medical problems and wanted to take unpaid leave repeatedly, meaning that she would be out usually at the end of a year, come back and then she'd want to take leave again. Having a clearly defined policy helps to eliminate what I would describe to you as game play next. You wanted to determine the parameters of your policy. What do we mean? Will you require your employee to exhaust all of their paid time off benefits before accessing unpaid leave?

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Or can the employee choose whether they want to use their PTO or unpaid leave? Now you may be thinking, why would it be the employee wants to take unpaid leave? If they can get paid? Of course, you're going to use their PTO, but let me tell you, that's not always the case. Sometimes your employees will cherry pick when they want to use your PTO. And when they want to use their unpaid leave policy. So let's say they have a medical reason that they need to be out. They'll take the unpaid leave. And then those still turn around and go on vacation. When they come back and use their PTO. The whole reason, all of this is important is that you are trying to run a business in order for your practice to run efficiently.

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You need to understand your staffing requirements. Who's going to manage the front desk. What if your medical assistant is out? You need to think about how long you can realistically hold a job for somebody who's out. This will help guide what you think a reasonable believe period should be. And of course, yeah, we need to think about how are you going to staff their position during their absence. This is a delicate balancing act between keeping your employees happy and running your business by having a well-defined policy where you thought through in advance, how am I going to deal with my staffing needs?

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If I hold onto somebody's job, how long should that leave? Be? What are the criteria for allowing somebody to take leave? All of these things are going to help you prevent misunderstandings, which brings me to one

of the biggest issues when it comes to leave and that is having or adopting a child. You need to determine whether you're going to have a separate maternity paternity, see it from your leave policy. Personally, I wouldn't do that. Always better to have one consistent policy. And again, you need to determine whether you're going to have the employee exhaust their PTO first, and you want to be consistent with regard to when the clock starts ticking.

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I E does it start from their first day out? So let's say somebody gets sent to bed at six months. If they don't deliver until nine months, they've already been out for three months and then they first want to have additional leave. Are you really going to hold onto their job till after they deliver? And then first take that additional leave. I can tell you from my own experience that this is always an issue and you need to have a consistent policy, because it is very likely that you will have more than one employee who wants to go out on a maternity or paternity leave and whatever you do for one, basically have to do for all of them.

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Why is you're setting yourself up for potential litigation? One of the most difficult situations though is when near the end of the leave, the employee comes and requests that they have a new schedule that better meets their needs. Unless you have a clearly defined policy. This is very likely to make you feel very uncomfortable. Why? Because it's not always easy or possible to accommodate the needs of the new parent who wants to return to work. And we're maybe I should say, but you don't want to appear insensitive to your employee's needs. Even under FMLA. The law states that you only have to, that the employee has the same position to return to, or a similar position with the same hours and benefits.

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You're not obligated to accommodate a new work schedule. After FMLA leave is over. That said, let's say you have less than 50 full-time employees. You're still going to want a policy statement. And I would recommend using this as a guideline. This is particularly important when you're small and have relatively few employees, for example, and this has happened to me. Let's say your clinic starts at 8:00 AM your medical assistant who's been out on leave, wants to return to work, but she wants to come in at nine o'clock because she has to drop her baby off at daycare. This is going to be a challenge for you, especially if she is your only medical assistant.

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So by having a policy where you've defined that they're coming back to the same job, same hours, same benefits. It basically gives you the talking point in advance. The last thing I want to talk to you about is requiring employees to be fully cleared when they return to work. Let's say that one of your employees has been out for a medical reason, and you're thinking that you want them to be cleared, to return to full duty. As an employer, you may have an obligation under the Americans with disabilities, act the ADA to provide reasonable accommodations.

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This is where providing your employees with a list of essential job functions can lead to a discussion about the ADA in determining whether it's reasonable to have them return to work and what accommodations can be made. One of the things that I want to point out to you is that it is very important that you keep your employees job descriptions up to date, especially because it's really common in their practice to have that job description evolve over time. Maybe you've added responsibilities, maybe you've changed what they're actually doing. You want to make sure that when you make a change in somebody's job description, that that is actually reflected in writing this way.

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If there's ever an issue about what are their essential job duties, you have a documented. Thanks for joining me. Please be sure to sign up for my newsletter below. I'll be sending you tips on how to start a practice, grow a practice, and then to add multiple services so that you can maximize your revenue.