



EPISODE 16 - The “Acts”

Transcript

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I went to high school with a student who had a disability. He was such a happy person, so positive, saw the best in everyone and everything. When we graduated high school, he got a job as a custodian at the mall. Every time I saw him, he had a smile on his face and was so proud to be working. He'd interact with the customers in the mall and anytime I'd see someone ask for help or mention a spill in the food court, he'd be right on it. It gave him independence and so much joy to be able to work, earn a paycheck and have a purpose. Thankfully he was given the opportunity to work and - that there's laws to protect individuals with disabilities. I thought about him as I was preparing for this episode especially when reviewing one particular law that was passed in America in 1990.

[Music and Intro]

Hey there. In this weeks episode of the RD Exam Made Easy Podcast, you're gonna learn about the Acts - government acts that is. This weeks episode was requested by Vicky who's currently studying for the RD Exam. If you have a topic you want covered on the podcast, send me a message and let me know. You'll find details on how to do so in the show notes. Before we get started with this weeks lesson, I wanted to give a huge shout-out to Danielle Kauffman who just passed the RD Exam. Danielle was actually one of the first listeners of this podcast so it's been great connecting with her on Instagram and I'm so honored to have been part of her journey. It's a HUGE accomplishment to pass the RD exam. So excited to see the amazing things Danielle will do as a Registered Dietitians. Congratulations Danielle.

Ok. So let's get started. I want to start by saying that I'm not an attorney. I don't write laws or amendments to laws or government bills. Some of the laws - actually most of them - are super long and wordy and there's a LOT of detail involved. For the sake of this episode and for what I believe you will need to know as an entry-level dietitian, I'm gonna summarize them for you. I'm not gonna touch on every single detail. I'm sure law students have to write long papers about some of these acts - that's just not what we're doing here. This is not a law class. My goal is for you to know enough to answer the question correctly if you're given a question like this on the RD exam. And if you don't, you'll at least have a basic understanding of these laws for when you enter the workplace as a dietitian. Regardless of where you work - whether you're an employee at a company, or you're management or maybe you start your own company - you should be aware of these laws. Depending on where you end up working, you might get more experience with some of these acts - especially if you work in management at a larger company. I created a cheat sheet for you that summarizes these acts. I also have a list of references if you

want to know more about these acts in a lot more detail. You can find the link to your cheat sheet in the show notes. So now that the housekeeping is covered, let's get started with the first act. I put these in chronological order from when the act was introduced. It paints a picture of how the law progressed over the years and how the laws have built on each other.

The National Labor Relations Act was passed by Congress in 1935. As the name implies, this act protects workers by allowing them to form unions, participate in collective bargaining and negotiate better working conditions. Collective bargaining is when the employer and the union negotiate or bargain an agreement between labor and the employer which is called the collective bargaining agreement. It's often referred to as the CBA which is just the abbreviation for collective bargaining agreement. Both labor and the employer are required to follow the CBA. Each company that has a union representing its members will have their own CBA that is individualized depending on what labor wants and needs. The rules may vary. Generally speaking there are some similarities. Unions usually grant positions based on seniority unless specified otherwise in the CBA. The union members elect representatives who bargain on their behalf and represent them if needed. Some examples of when someone would seek out a representative which is also called a union steward or shop steward, include concerns that an employer is not following the CBA or if the employee has concerns about an employee's performance. If you work at a company that has unions, whether you are the manager or an employee represented by a union, it would be a good idea to read the collective bargaining agreement so you understand the rules and expectations that were agreed upon. If an employer stops labor from forming a union, a claim can be submitted to the National Labor Relations Board or NLRB. Senator Wagner proposed a new independent agency in 1935 which was the National Labor Relations Board which has 5 members appointed by the President and are confirmed by the senate. The National Labor Relations Board ensures employee rights are being followed and respected. If workers feel their rights are being violated, they would file a claim to the NLRB for review.

Unions are voted in by labor. They need a majority vote. Unions may come into the workplace and speak with employees. If at least 30% of the employees sign an interest card, it will go to election. Sometimes though, if the majority of employees sign a union authorization card, it may count as a vote. It's important for employees to understand what they're signing. I know someone who signed the card from the union. She thought it was to receive more information about the union so she could make a more educated vote when and if the time came. The card she signed counted as her vote. It's a reminder to be aware of what you're signing. Once the union is voted in, they then begin negotiations with the company or employer to develop a CBA or collective Bargaining agreement. So that's the National Labor Relations Act.

Fast forward a few years to 1938 which is when the Fair Labor Standards Act was passed. It may also be called the Minimum Wage Law. This law created a minimum wage and requires that overtime must be paid at one and a half times the employees hourly rate for any hours worked over 40 hours per week. Say for example, one of your employees makes \$20 per hour. If they work overtime, they'll need to be paid \$30 per hour for the hours worked over the 40 hours that week. Excluded are shift workers who are regularly scheduled to work more than 8 hours per shift such as nurses for example. Often times, nurses work 12 hour shifts. Some other exceptions and exemptions to the minimum wage and overtime requirements include employees who are salary which are typically managers, executives, and administrators. Generally speaking, in our profession for example, directors of operations in food service departments are salary. Let's say an employee worked overtime but was not paid for it, the fair labor standards act would help with this claim. Under this law, employees are required to be paid overtime and to be paid the overtime rate. The fair labor standards act also sets the minimum wage. In addition to pay, this law also addresses child labor. Children under 18 can't do dangerous jobs and children under 16 can't work during school hours for example.

In 1947, the Taft Hartley Labor Act was passed. It's also called the Labor Management Relations Act and is an amendment to the Wagner Act or the National Labor Relations Act. Remember, the Wagner Act is a bill that allows workers to join and form unions, participate in collective bargaining and negotiate working conditions. This act was put in place to create balance by restricting some of the unions power. For one, it gave employees the right to choose if they wanted to participate in union activities or not. Just like employers are required to bargain in good faith, this act requires the union to also bargain in good faith. It also prohibits unions from charging excessive dues from its members.

Since we're talking about labor and management, the Labor Management Reporting and Disclosure Act of 1959 addresses the relationship between unions and their members. It basically regulates internal affairs. It's also called the Landrum-Griffin Act. This act grants rights to union members and requires democratic procedures within unions.

In 1963, the Equal Pay Act made it illegal to pay some workers less than others based on sex. Under this act, men and women must be paid the same for doing the same work. Here's an example. Say a female employee is hired and does the same job as a male counterpart with the same qualifications and work experience. They have the same job title and are expected to do the same tasks. They have the same responsibilities. She finds out that her male counterpart is getting paid more than her. Through further investigation, it is found that the only reason he gets paid more is because he's a male. This would be a violation of the Equal Pay Act.

The Civil Rights Act was signed into law in 1964. It prohibits discrimination based on sex, race, religion, color or national origin. It also prohibits sexual harassment. In addition to preventing discrimination in the workplace, it prohibits discrimination with voting rights, in schools and public accommodations such as stores, restaurants, recreational facilities - basically public places. Many states also have their own laws in addition to the Civil Rights Act which is a federal law.

In 1967 the Age Discrimination in Employment Act was passed. This act protects people 40 years and older from employment discrimination. It was proposed because some companies were denying workers health benefits and training opportunities because of their age. It only applies to businesses with 20 or more workers.

Moving on to the Equal Employment Opportunity Act of 1972 which prevents discrimination based on race, sex, religion, color, national origin, political affiliation, pregnancy status, sexual orientation. The U. S. Equal Employment Opportunity Commission or EEOC enforces the federal law. Employees are protected during the hiring and firing process, any promotion or training opportunities as well as benefits and wages. So let me give you an example. A pregnant woman applies to a job. She's visibly pregnant. The hiring manager cannot ask her if she's pregnant. The employer cannot decide not to hire her because she's pregnant. That's considered discrimination and she is protected under the Equal Employment Opportunity Act. Employees should be considered for jobs based on their qualifications and what they'll contribute to the business.

Ok. The next act is the Americans with Disabilities Act, sometimes referred to as the ADA was passed in 1990. This law prohibits discrimination against people with disabilities in schools, the workplace, transportation and all public and private places that are open to the general public. This lawmaker sure people with disabilities have the same rights and opportunities as anyone else. An amendment in 2008 extended protections to private employers with 15 or more employees and government agencies.

Moving on to FMLA or the Family Medical Leave Act of 1993. This is another labor law that requires covered employers to provide job protection to employees and unpaid leave for qualified medical and family reasons. Those who are eligible can take up to 12 weeks of unpaid leave during a 12 month period. This can be for the employees own illness or the illness of a family member. The unpaid leave also covers the birth of a child or adoption of a child. The rules of FMLA include: 1) The employee has worked for the employer for 12 months. This means the employee can't start a job in June for example and go out on FMLA in September. You have to have worked for 12 months in order to qualify. 2) The employee has to have worked 1250 hours in the past 12 months. I had a friend who had a baby. She worked 1200 hours before she had her daughter which meant she didn't qualify for FMLA when she had her because she missed the hours required under the law. This usually is an issue for employees who work part-time. In her case, she had worked for the company for more than a year but she

was on-call for a lot of the time then moved into a part-time position. So the minimum hours weren't meant under the law. And 3) The employer, both private and public companies, have at least 50 employees. Under FMLA, the employee's guaranteed to have an equivalent job when they return to work with the same pay and benefits. It doesn't guarantee their exact job when they return. Keep in mind that there's also state laws that can provide additional protection for employees and some states also have laws mandating paid FMLA. As a manager, this is one of the laws you'll likely get more experience with because it requires some action either by the manager or by a designated person who handles launching leaves of absence in the department. A few years later in 1996, the Health Insurance Portability and Accountability Act or more commonly known as HIPAA was passed into law. It provides protection of patients sensitive health information. A patients health information can't be disclosed without their consent - that also includes for yourself.

For example, if you change doctors and want your old doctor to share your medical documentation with the new doctor, you need to agree and consent to it before it can be sent to the new doctor's office. Patients health information is known as PHI which stands for Protected Health Information. Some examples of PHI - and the list is long - include the patients name, date of birth, diagnosis, medical record number and social security number. Let me give you an example of how PHI needs to be considered in a foodservice department. Say you work as the foodservice director in an acute care hospital. The meal tray ticket for example usually has the patients name and diet order listed on it. The ticket cannot go in the regular trash because it contains Protected Health Information or PHI on that ticket that is protected under HIPAA. The name is protected and the patients diet order can give an indication of the patients medical condition.

Let's say John Smith is admitted with poorly controlled diabetes now in kidney failure. His name appears on the tray ticket in order to make sure the right tray is delivered to the right patient. The diet that appears on the ticket is Consistent Carbohydrate/Renal. This gives an indication that this patient has diabetes and kidney issues. It's always better to be safe than sorry so in order to follow this principle, the ticket should go in a shredder bin or receptacle that keeps the patients PHI safe. Something else to keep in mind is to not go into a patients medical record unless you have a business need to be in the chart. Curiosity is not an appropriate reason. Some healthcare employees have snooped in medical records particularly in high profile cases or when famous people are admitted. Their curiosity got the best of them. You hear it in the news how employees have lost their job because they violated HIPAA. What you access in the medical record can be tracked - especially now that most facilities use Electronic Medical Records or EMRs. So if you don't have a need to be in the chart, don't go in there.

Ok this is the last act for this episode which is the Affordable Care Act of 2010. The acronym used is ACA. The Affordable Care Act was one of the biggest overhauls to healthcare in the United States and expanded healthcare

to employees and their families. The requirements under the Affordable Care Act didn't go into effect until 2014. This law stopped insurance companies from denying healthcare coverage to people with pre-existing conditions. It addressed premium costs, and mandated preventative care and screenings including pregnancy as well as other routine screenings. These are just a few requirements under the law. Generally speaking, the Affordable Care Act was healthcare reform.

There are so many acts. So many more than the ones addressed in this episode but these are the most common that fall within employment law and may impact you as you enter the workforce as a Registered Dietitian. As a manager, Human Resources is something you usually have to deal with - whether you work closely with HR or you're required to handle a lot of the responsibilities on your own as the manager. And if you're asked about any of these "acts" on the RD Exam, you'll need to know the basics. Remember that.

Stay on top of your study game. There's no limits to achieving the success you so deeply desire. Until next time.

[Music and Outro]