

Every breath you take

BY PORTIA STEWART, EDITOR

He's watching you. You can't concentrate, you're afraid to be alone with him, and the comments won't stop. Sexual harassment can be relentless, consuming your work and your life. It happened to these women—and it could happen to you. Here's what every woman (and man) should know about sexual harassment.

She was alone in the dark room when it happened. The lights were off, but she could feel him behind her, a presence standing close in the darkness. Anna paused in the midst of popping the X-ray film from the cassette. She felt the heat rush to her face and the slow cascade of sweat tracing a line down the back of her neck. He was close, so close, and he wanted her to know it. “Oh my God,” she thought. “What am I going to do?” She heard him chuckle before he leaned forward, grinding the front of his body against her back.

“You know you like it,” he said, laughing.

Too scared to scream. Embarrassed. Ashamed. If she did, the other technicians would know. What would they think? She was young, new, vulnerable. He knew it. Her stomach rolled with the sensation of his body pressing against her own. She whirled and kicked him in the crotch. He laughed again and stepped back. Then he left the room.

Anna’s experience may sound extreme, but it’s not as unusual as you might think. About one-third of veterinary team members say they’ve experienced sexual harassment at work, according to a 2007 VetMedTeam.com survey. And it’s not surprising. Ninety-five percent of team members are women, according to 2007 *Firstline* research, and women are much more likely to experience sexual harassment than men. The U.S. Equal Employment Opportunity Commission reported males filed only 16 percent of the 12,510 complaints in fiscal year 2007.

Traditionally, veterinarians and practice owners have been male, and 2007 market research from the American Veterinary Medical Association show

Editor’s note: Some names and identifying details have been changed for privacy.

What is sexual harassment?

The U.S. Equal Employment Opportunity Commission

offers this definition: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work environment.

53.5 percent of veterinarians in private clinical practice are male. This demonstrates the pattern experts often see in sexual harassment cases: Women are more likely to face sexual harassment when they enter a male-dominated profession, according to research published in the March 2007 issue of the *Journal of Applied Psychology*.

Can you protect yourself? Sometimes. Our experts agree these cases can happen to almost anyone, but you can decrease your risk—and learn how to correctly handle any experience you face. Consider these true stories from readers like you and advice from legal and human resources experts.

When harassment gets physical

Like many cases of sexual harassment, Anna’s experience didn’t begin—or end—with the confrontation in the dark room. She knew she had a problem from almost the first day she started her job. As a veterinary technology student, Anna thought she’d found a dream

job at a progressive practice in Chicago. The doctors and technicians were highly qualified and well-respected, and the pay was great. Dr. Smith was sharp-tongued and demanding, but Anna was eager to learn.

That's why she and her co-workers often ignored the jokes he made about his sexual history, even though the comments made them uncomfortable. But the afternoon with Dr. Smith in the dark room marked a turning point. Anna faced a difficult decision: stay or leave. She was newly married and attending school, and every time she considered quitting, visions of her rent and school bills rose up to haunt her.

She told herself she wouldn't give up, she wouldn't quit. And there was no one to go to—he was the practice owner, the boss. Besides, a job as a clerk at a fast food restaurant wouldn't pay as much, and she'd be leaving a field she loved and a chance to learn from one of the most skilled veterinary teams in her area. She decided to stick it out. That is, until she

43% of team members say they've witnessed sexual harassment at work.

Source: 2007 VetMedTeam.com survey

discovered she was pregnant.

The day she announced her pregnancy to Dr. Smith, he berated her, calling her names and telling her she was useless. He assigned her the most menial task, labeling pill bottles. Then, in a turnabout, he confronted her again that afternoon and sent her home, telling her not to come back until she had a doctor's note specifying which tasks she could perform—including whether she could work on the computer, a task he sarcastically told her he doubted she could perform because it might hurt the baby.

Anna spent that afternoon in her OB/GYN's office. Tearfully, she explained the situation to her medical doctor, who told

Anna she couldn't go back to work. The situation was so stressful her physician feared Anna was at risk of losing her baby.

That afternoon, she began vomiting. Later that evening, her husband raced her to the emergency room. Anna was dehydrated and exhausted. Doctors put her on bed rest for the remainder of her pregnancy, and she never returned to work. Six months later, Anna gave birth to a healthy baby boy.

Throughout her employment with Dr. Smith, Anna experienced physical and emotional reactions to the harassment. She suffered from stress rosacea for the first—and only—time in her life. And she began to experience irritable bowel disorder, a symptom she continues to suffer from today.

Anna's complaints aren't uncommon. People who've suffered from sexual harassment report a range of physical and psychological effects, including depression, anxiety and panic attacks, shame and guilt, headaches, and gastrointestinal disorders. In fact, research reported in a 1993 issue of the *Journal of Vocational Behavior* suggests sexual harassment may even lead to a mental illness called post-traumatic stress disorder (PTSD).

Most commonly linked to traumatic assaults, disasters, accidents, or military combat, PTSD sufferers may exhibit symptoms including irritability or emotional numbness and even display aggressive or violent behavior. They also may suffer from flashbacks, where they relive the traumatic event again and again. And women are more susceptible to the condition than men, according to the National Institute of Mental Health.

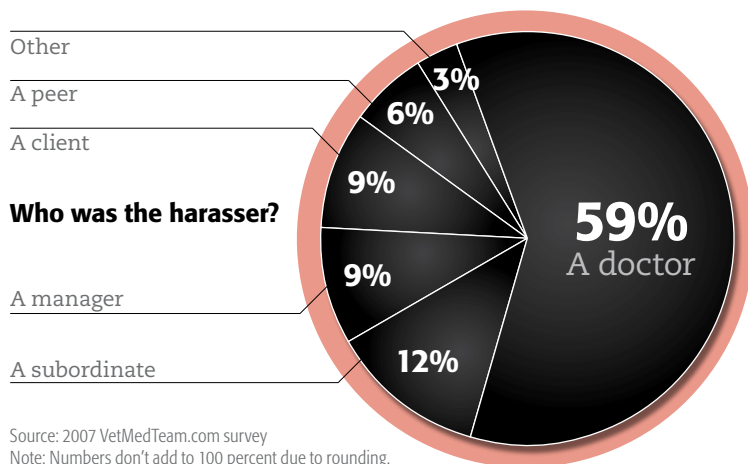
The sleazy vendor

One day Carol, a practice manager, noticed a group of technicians clustered in the practice lounge. They were whispering and looking worried. Concerned, Carol

firstline figure 1

Profile of a harasser

Ninety-one percent of team members who've been harassed say their harasser was male, while 9 percent of harassers were female. And harassers are most often doctors.



Something for something

The most common type of sexual harassment is a hostile work environment. But there is another kind, one you may have witnessed in practice. Have you ever worked at a hospital where a technician or receptionist is dating a doctor? Did that person seem to rise faster, receive more promotions or perks? It's called *quid pro quo*, or something for something, and it's also illegal.

Quid pro quo cases can occur in two ways, says Harleen Kalon, CEO and founder of DamselsInSuccess.com. In the first scenario, the boss might approach you and indicate he or she expects sexual favors as a term of your employment. In the second scenario, you might notice a colleague receives special treatment because he or she offers sexual favors to the boss. The implication in these cases, Kahlon says, is that sleeping with the boss leads to advancement.

asked what was going on. They told her Bob, a vendor, was visiting the practice, and they were hiding Sally, a technician. They explained that Bob had been asking Sally out on dates for the last six months. Although she always refused him, he continued to pursue her, leaving notes on her car and making sexually explicit comments.

Carol found Sally and confirmed the complaints. Sally told Carol she was afraid of Bob, but she hadn't said anything because she didn't want to cause trouble and Bob might get mad.

Sally's comments launched Carol into action. She pulled out the practice's sexual harassment policy and reviewed it with Sally and the rest of the team. Then she called Bob's supervisor and told him about Bob's inappropriate behavior. Bob's supervisor sent him to sexual harassment training, and Bob was only allowed to return to the practice when Sally felt comfortable again and gave her permission.

Since then, Carol has given a special focus to the issue. She's confronted a few clients who've behaved inappropriately with team members and even fired two

clients for harassment. She's also focused on training her front office team members to encourage professional behavior and eliminate any confusing messages clients might misconstrue.

Small and mid-sized businesses may avoid creating a sexual harassment policy because these employers believe it might encourage complaints, according to a 1998 Commerce Clearinghouse report. But Caren Goldberg, a management professor with Kogod School of Business at American University in Washington, D.C., says that may not be true. She recently completed research that shows harassment training doesn't encourage lawsuits. Her advice to small business employers: Post your policy visibly.

"This may be an effective approach to remind potential offenders that they're expected to behave appropriately," Goldberg says. "It also reminds potential victims that they have a right to a workplace free from harassment."

There are indications, she says, that sexual harassment is about power. So characteristics and behaviors, like being a female in a subordinate position or avoiding conflict, might increase your

How to answer a complaint

Employment attorney Jack Tuckner offers this quick guide for employers about how to respond when an employee complains of sexual harassment.

1. Thank the employee for the complaint. You might add, "We take these claims very seriously, and we're an equal opportunity employer. We'll investigate this situation, and please let us know if there's anything we can do to make you more comfortable as we look into this. We'll strive to keep this confidential, and we will not retaliate against you because of this complaint."

2. Consult your human resource and legal consultants. You need to conduct an investigation, which will include interviewing the alleged harasser and the person lodging the complaint. Your attorney can offer the best advice to handle this situation appropriately.

3. Consider offering paid administrative leave for the complainant. This ensures there will be no more confrontations while you're investigating the complaint. It's also a nice gesture to offer to pay for counseling for the complainant.

4. Reach a conclusion. At the end of the investigation, you must reach a conclusion. If you determine that the employee was discriminated against, you must launch corrective action, from monitoring to firing the perpetrator, depending on the situation.

Finally, if you haven't already, make sure you address sexual harassment in your employee manual. Explain that you're an equal opportunity employer and list the protected classes. This policy should also explain how to complain and who the employee should approach with the complaint.

risk of being targeted.

"You may be able to minimize your risk by demonstrating power," Goldberg says. "For example, if someone makes an inappropriate remark, simply saying, 'that's inappropriate' may make the offender think twice before repeating the behavior.

"As awkward as it may feel for victims, they are more likely to end the harassment by confronting the harasser directly. If that isn't effective, they should formally report the behavior and give their employer a chance to address the problem."

The foul-mouthed client

It started with a few sexual comments. Lisa, a receptionist, was proud of the 50 pounds she'd lost, and clients began to notice as well. The women all wanted to know how she'd done it, but a few of the male clients had a different response. As Lisa's weight changed and her clothes began to fit better, the comments began. Most were little compliments and some were clearly sexual.

At first, Lisa wasn't sure how to respond. As a receptionist, she knows a warm, friendly greeting at the front desk is important to a practice's success. But she was uncomfortable. She reached the breaking point when one client we'll call Joe took it to the next level. A firm believer in good eye contact, Lisa was watching Joe leave the practice when she saw him make a rude gesture with his tongue. Appalled, Lisa told her co-workers, who scoffed at her.

A few weeks later, Joe returned. Noticing him in the parking lot, Lisa ducked into the back of the practice. Undeterred, Joe started down the hall to look for her. Joe announced he was there to tell her some jokes. Lisa came to the front armed with an 8-pound bag of cat food across her front as a shield. Joe sidled up so close he rubbed her shoulder. And after every punch line he'd give her a little squeeze around the waist. Lisa was so flustered, she didn't even hear the second joke. She was upset for the rest of the day and longed for a hot shower to wash away the bad feelings.

Until that point, her weight loss seemed like a blessing. Now she was ready to do anything to attract less attention. Was it her fault, she asked herself? Did she deserve it? Sure she was friendly and chatty, but wasn't that her job?

When she first mentioned the male clients' comments about how hot and sexy she looked, her boyfriend told her to take it as a compliment. After the incident with Joe, he became concerned, and



WEB EXCLUSIVE

Visit firstlinemag.com for video clips of Jack Tuckner speaking about prominent sexual harassment cases.

ALM STAR COMMUNICATIONS

Client Review Only. All Rights Reserved. Adm Star Communications Inc. 2005



WEB EXCLUSIVE

Visit firstlinemag.com for a link to the AVMA's model policy on harassment and a discrimination-free veterinary practice.

he encouraged Lisa to talk to her boss.

Like so many women who suffer harassment, in the end Lisa said nothing. She wasn't sure her boss would take her seriously. She couldn't imagine her doctor confronting Joe about his behavior. Instead, she decided she'd keep behind the reception counter when Joe came to visit. And the next time she saw Joe, she mentioned her boyfriend. After that, Joe stopped making comments, although he's still an active client at the practice.

It's likely that there's nothing Lisa could have done to avoid Joe's unflattering attention. But you can reduce your

risk of facing a harassing situation using this advice from Harleen Kahlon, CEO and founder of DamselsInSuccess.com, a networking site for professional women. While Kahlon stresses harassing behavior is never acceptable, she says there are some simple steps women can take to head off inappropriate behavior.

● **Don't flirt.** "Behavior like flirtation and touching isn't acceptable in the workplace," says Kahlon, a Yale Law graduate who often speaks about sexual harassment. "We're all human, and it's hard for people to walk through the doors at work every morning and say, 'There are things I do

out there that I can't do in here.' The workplace is supposed to be a gender neutral zone, and it's tough for people to turn off their normal impulses."

And remember, even if you do flirt at work, it doesn't mean you deserve to be harassed. While you can sometimes reduce your risk of harassment, there are some incidents you can't prevent.

● **Behave professionally.** "I think every woman needs to learn the art of being warm and friendly in a professional manner," Kahlon says. "There's a way to behave that demonstrates you're not to be messed with while still being someone others can confide in—with boundaries. It's an art, and it's tough to master."

Acting professional also means dressing the part, so it may be time to take a quick stroll through your wardrobe and edit your work attire. "The way women dress has always been something that's been held against them in these situations," Kahlon says. "If you want credibility, start by dressing professionally."

● **Avoid sexual language.** "Don't give the impression you have the stomach for sexual comments by engaging in banter," she says. She recommends excusing yourself politely when conversations turn sexual, so co-workers perceive you don't joke around about these topics. And if the situation becomes a problem—persistent and uncomfortable—you may need to complain to demonstrate you won't tolerate that behavior.

figure 2

Sexual harassment charges

Complaints filed by men are on the rise, according to data from the U.S. Equal Employment Opportunity Commission, while the total number of complaints filed has fallen. Here's a look at the trends in sexual harassment complaints and how they were resolved over the last 10 fiscal years.

	1997	2007
Number of complaints received	15,889	12,510
Percentage of charges filed by males	11.6%	16%
Resolutions	17,333	11,592
Resolutions by type		
Settlement	6.8%	13.6%
Withdrawals with benefits	7.3%	10.2%
Administrative closures	39.9%	24.2%
No reasonable cause	41.4%	45.5%
Reasonable cause	4.7%	6.6%
Successful conciliations	1.7%	2.4%
Unsuccessful conciliations	2.9%	4.2%
Merit resolutions	18.8%	30.3%
Monetary benefits (millions)*	\$49.5	\$49.9

* Does not include monetary benefits obtained through litigation. The total of individual percentages may not always equal 100% due to rounding. Source: U.S. Equal Employment Opportunity Commission

● **Remember, they're not your family.** "We would all like to work in a place where it feels like our co-workers are family. That's a great feeling," she says. "But it's always a risk to become that close with your colleagues. Your job is ultimately the place you go to earn a living, not a place you go to build personal relationships. So it's important to exercise boundaries in the office."

The big-mouthed doctor

The comments started after Erin, a technician, had a minor conflict with Dr. Anderson, a female doctor at a large practice in Seattle. Erin is gay, and she enjoys the freedom of sharing this information with friends and colleagues she trusts. Dr. Anderson knew about Erin's sexual orientation. Always a bit of a gossip, Dr. Anderson started sharing Erin's private life with the public.

A day after their tiff, Dr. Anderson was discussing manicures with a co-worker. Noticing Erin, Dr. Anderson said to her, "Oh, I guess you're not

into that, are you?" Erin avoided the questioning look from the co-worker and went back to work.

Later that day, a new male extern joined the practice. Tall, blond, and muscular, he immediately drew the attention of several women in the practice, and they gathered to talk about him.

Dr. Anderson, who was standing next to Erin, turned and said, "Well, I guess he really isn't your type, is he?" The other team members overheard, and suddenly Erin found herself the center of attention.

"What does she mean?" one of the women asked Erin. That's when Dr. Anderson announced to the group that Erin only dated women.

The news spread throughout the practice, and by the end of the week, Erin was barraged with gay jokes and uncomfortable comments. Erin decided she couldn't work in the practice any longer and took a new job at a different hospital soon afterward.

Erin's story illustrates an important fact: Women are harassers, too. And harassment can come from a variety of different sources—from bosses, from clients, and from colleagues.

So what do you do when you face harassment? This is a highly personal decision, and it depends on many factors, including your tolerance and the severity of the harassment.

"I think it's wise to let one or two comments go, if they're not really aggressive," Kahlon says. "If your boss just calls you 'hon' once or twice, but not all of the time, you might write it off as an oversight." However, she adds, if you're really uncomfortable, it's time to complain. So what are your options?

▪ **Confront the harasser.** You might simply confront the person who's making you uncomfortable and let him or her know how you feel. "You might

41% of team members have experienced unwanted sexual remarks, jokes, or taunting. And **30%** have experienced unnecessary touching, while 18 percent say they've been subjected to leering, staring, or suggestive gestures.

Source: 2007 VetMedTeam.com survey

say, ‘Hey, I want to talk to you about something, and I don’t want to make you uncomfortable, but sometimes when you make these comments, I feel weird,’” Kahlon says.

● **Leave your job.** “Each person has to decide, ‘How much does this position matter to me, and what are the opportunities for me at this practice once I complain?’” Kahlon says.

● **Submit a formal complaint.** “Under the law, you must allow your employer to investigate the claim and launch corrective action,” says Jack Tuckner, co-founder of Tuckner, Sipser, Weinstock and Sipser LLP, a law firm dedicated to women’s rights in the workplace advocacy in New York. “And sometimes they do the right thing.”

If your boss refuses to address the situation, you’ll need to decide whether you want to continue managing the situation, seek a new job, or consider legal action. Much like Anna, many women are afraid to pursue legal action because they fear the lawsuit will follow them long after they’ve left their employer. So how do you decide whether it’s time to pursue legal action?

“You don’t file a lawsuit until you’ve given an employer a chance to respond and they fail to respond,” Tuckner says. “First you must file a complaint formally in a provable fashion.”

The truth about lawsuits

Lawsuits take a long time. They’re miserable for everyone. And often, the victim faces public scrutiny that can range from uncomfortable to sheer humiliation.

Tuckner knows this firsthand. As an employment law attorney, most of his cases involve gender-based workplace issues. And he’s successfully settled a case involving a veterinary assistant we’ll call Julie.

Julie was attending veterinary technol-

ogy school and working as an assistant. Jim, a kennel attendant, constantly bothered Julie, asking her out on dates and telling Julie what a stud he was. Julie went to Tuckner for help.

“I told her, ‘You don’t have a case yet,’” Tuckner says. “I asked her, ‘Have you told him you’re not interested?’”

“Yes,” Julie said. “It doesn’t work. He calls me a lesbian or a bitch. He tells me all I need is one night with him and I’ll be a new woman.”

Tuckner sent Julie back to her practice with this advice: Tape record the conversations—a legal act in New York—and complain in writing to the practice owner, a veterinarian we’ll call Dr. Jones.

When Julie approached Dr. Jones, he was angry and dismissive. Why couldn’t Julie just go along to get along? Julie explained she had a tape recording of the incident. Dr. Jones agreed to listen to the tape at home. A few days later he returned a broken tape to Julie. He told Julie he’d listened to the tape, and he’d shared it with his wife and a family member who was an attorney. They agreed that the conversation wasn’t harassment, and Dr. Jones blamed Julie for the behavior, claiming she encouraged Jim’s remarks.

That’s when Tuckner came in. He sent a letter to Dr. Jones informing the doctor he was representing Julie. When Dr. Jones read the letter, he fired Julie.

“So once he fired her—within weeks, in fact, of her filing a complaint—she had a classic sexual harassment and retaliation case,” Tuckner says.

When Tuckner learned of Julie’s dismissal, he wrote to the doctor again to try to negotiate a resolution. “All I was trying to do at this point was to make sure the women who came after her wouldn’t have to go through this and get her a nice little settlement,” Tuckner says. “Settlements under these

circumstances are often modest. At the time it might have been a several month's severance pay to tide her over while she looked for a new job."

Dr. Jones' response to Tuckner: "Drop dead. We'll never pay you." Tuckner immediately filed a complaint in state court. Five years later the case finally went to trial. In the middle of the trial, Dr. Jones agreed to settle. The settlement wasn't resolved for another two years, but finally Julie received compensation—roughly five years' pay.

Julie's case is unusual. Most cases

God forbid, you end up being fired over this and you want to receive back pay or pursue this legally, you're not going to remember every little thing the harasser said. Second, it reinforces your credibility. Your attorney or arbitrator will be more likely to believe your recollection because you wrote it down."

Tuckner agrees. "You're the one who has to show that there was something about your employment or the termination that was discriminatory," he says.

● **Submit a formal complaint.** Legal experts agree you must complain about

notifying your employer of your belief that you're being sexually harassed. You want to demonstrate you've given the employer ample opportunity to remedy the situation, and he or she failed to take the appropriate action.

"I'm always upset when someone tells me, 'Oh, by the way, I resigned two months ago and I never submitted any kind of letter of complaint,'" Tuckner says. "These situations are a long, uphill battle with no proof."

What if you're fired? If the firing occurs after you submitted a complaint, the courts may construe this action as retaliation, which is illegal. If you've been maintaining good records of the harassing behavior and the complaints you've filed at the practice, you offer yourself the best chance for a successful case.

● **Seek legal advice.** Each case is different, so it's best to seek legal advice and discuss the details of your situation with an employment lawyer. He or she can offer guidance on the appropriate action.

Whichever path you choose, remember that you're not alone. The U.S. Department of Labor predicts women will make up 48 percent of the labor force in 2008. And a poll conducted by Louis Harris and Associates shows 31 percent of female workers—and 7 percent of male workers—claim they've been harassed at work. Sadly, 62 percent of targets report they took no action.

"Everyone is entitled to feel comfortable at work, and if you don't feel that way, you need to do something," Kahlon says. "So start by talking to your boss. I know it can be awkward, especially in a small workplace, but you want to offer your employer a chance to create a safe, comfortable workplace." *



"You're the one who has to show that there was something about your employment that was discriminatory," Jack Tuckner says.

don't make it to trial, and it's rare to see such a large settlement, but other aspects of the case offer a bird's-eye view into the process of litigation. Here's a look at what you must do if you decide to pursue a lawsuit.

● **Know the law.** Title VII of the Civil Rights Act of 1964 states an employer must employ at least 15 employees for the employee to file a sexual harassment claim under federal law. Some cities and states have different requirements—for example in New York, the employer must employ at least four employees for the employee to have legal recourse in state court. Julie couldn't file a complaint with the EEOC, the government agency that reviews all complaints before they go to federal court, because her practice owner employed fewer than 15 people. But she was protected under her city's and state's law.

● **Keep records.** "It's important to keep a running log of the behavior you're dealing with," Kahlon says. "Because if,

the behavior—and a written complaint is preferred. In fact, Tuckner suggests sending the letter certified mail, return receipt requested, or by courier service, such as United Parcel Service, Federal Express, or Priority mail, so you have proof of receipt. And it's also critical to record the dates and details of the harassing behavior. Courts are much more likely to believe you if you can provide specific details about the incidents you experienced, and writing them down shows you're not just relying on what you remember.

"In most sexual harassment situations, the practice's liability stems from the employer's failure to remedy the situation," Kahlon says. "Notice often triggers your boss's obligation."

● **Don't quit.** "Quit is a four-letter word in plaintiff's employment law circles," Tuckner says. Save for certain special and extreme circumstances known as constructive discharge, Tuckner says you must first file a formal complaint

.....
Please send questions or comments to
firstline@advanstar.com.
.....