

THE VOICE

03
SUMMER
2008

HR|experts™

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From “THE VOICE” at the other end of the telephone:

Dear Practice Administrators/Managers,

What a wonderful welcome I’ve received over the last few months! Thank you all for the support you have shown as I transition over to HR|Experts. By now you have received word that Ted Pattison has accepted another opportunity and is no longer with HR|Experts. We will miss Ted and wish him the best. Meanwhile, I am ready to receive your calls and will assist you as best I can!

Thank you for faxing in your registration forms for HR|Experts. If you have not already done so, send in your registration form and give me a call or send me an e-mail with your HR questions.

Over the past few weeks, I have had the opportunity to meet or talk with many of you by telephone, e-mail, or in person at meetings sponsored by Medical Mutual Insurance Company. If you attended one of the presentations, you heard me talk about a few of the items in this quarter’s newsletter. Specifically, in this issue of “The Voice” you will read about the following **Topics**:

- Managing Workers’ Compensation
- Outsourcing HR to a PEO

In our **Compliance Corner** this quarter, you can read about the updated I-9 Form and the State and Federal Minimum Wage Increase.

In addition, I’ve continued the tradition of including several of your **Frequently Asked Questions** on page 4.

I look forward to continuing to partner with Medical Mutual Insurance Company to successfully support our Members with a variety of Human Resource related services. Give me a call!

Sincerely,

Jill Schultz

Human Resources Advisor

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Contact HR|Experts:

Direct: 919-431-6096
Main: 888-473-9778
Fax: 919-431-6094
jill.schultz@callhrexper.com

Phone calls and messages will be
responded to 8:30am-5:00pm
Monday-Friday.



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The Voice is not designed or intended to
render legal advice to its members.

Compliance Corner

New I-9 Released

The US Citizenship and Immigration Services (USCIS) released a new I-9 on 6/26/08. While the only change is the expiration date of the form (6/30/09), prior forms are no longer acceptable for employment verification.

All employers are required to complete an I-9 form for all employees hired in order to verify their eligibility to work in the US. (Reminder: the form was also amended in 2007 changing list of acceptable documents.)

The M-274 Handbook for Employers, Instructions for Completing the Form I-9, as well as the new I-9 form are available at the following website:
www.uscis.gov/I-9

Minimum Wage Increase, Effective July 24

The federal minimum wage provisions are contained in the Fair Labor Standards Act (FLSA). Effective July 24, 2008, both the federal minimum wage and the minimum wage in North Carolina increased to \$6.55 per hour.

Visit the following for more information:
www.dol.gov/esa/whd/minimumwage.htm and
www.nclabor.com/wh/fact%20sheets/minimum_wage_in_NC.htm.

Managing Your Workers' Compensation Claims

Fortunately, many practices do not have a lot of experience managing workplace injuries because your employees simply aren't getting injured. Kudos to you for maintaining a safe workplace! On the flip side, when one of your employees does injure themselves on the job, it puts you in the position of trying to recall Workers' Comp 101 and determining what the first (and next) steps should be. The following are a few tips that may help you.

1. If an employee suffered an injury that meets the following three criteria, you can be reasonably certain that the injury falls under Workers' Compensation (WC).
 - The claimant suffered an unexpected on-the-job injury by accident (special provisions exist for back injuries, hernias, & diseases).
 - The injury arose out of employment.
 - The injury was sustained in the course of employment.
2. If you're still not sure if the injury should be filed as WC, call your WC insurance carrier. Remember, your WC insurance carrier works for you and should provide information to help answer your questions.
3. Follow the reporting guidelines provided by your WC insurance carrier: Form 19 should be filed with your insurance carrier within 5 days of employer's knowledge of injury. (If you're self insured, file directly with the Commission.)
4. If the employee needs to miss work, stay in touch with the employee and your WC insurance carrier.
5. Check your medical leave policy to help manage employment status and reinstatement rights. Establish a maximum medical leave and include it in your written policy—best for small offices without FMLA.
6. Apply policies (length of leave, reinstatement rights, separation, etc) consistently to all employees who have taken a leave of absence.
7. Consider limited light duty to help transition the employee back to work.

Heads Up! 7 Things You Might Not Know About Outsourcing HR to a PEO

For some companies, outsourcing some or all human-resource administrative functions to a co-employer – a Professional Employer Organization (PEO) – is the right move to more efficiently focus on core business needs. In the most comprehensive engagements, the PEO administers payroll, benefits, hiring and firing, and all other employment-policy matters and related functions – while leaving actual workplace/employee management to the core-business staff. But for the wrong businesses or with the wrong vendors, PEO co-employer arrangements prove to lead to HR discontent – or even disaster. When a PEO serving many North Carolina companies shut down and filed for bankruptcy in December, 2007, it left those companies scrambling to get replacement insurance coverage and alternate payroll services, and to otherwise replace HR functions the PEO had handled – while also leaving questions about their potential liabilities for millions in payroll taxes the PEO hadn't paid on their behalf.

Because this was only the latest in a small-but-significant decade-long string of PEO defaults around the country – due to bad luck, mismanagement, malfeasance, or outright fraud – it's imperative that you recognize the warning signs of a problem PEO. But it's equally important to know of the potential pitfalls in dealing with the majority of solvent, well-run PEOs that, without incident, serve companies employing more than 2 million American workers. So here are some summary revelations from a true story that illustrate some lesser-known aspects of PEO engagements that you must factor in if considering such a move.

(Continued from page 2)

Outsourcing HR to a PEO

Leaders of small organizations are often sold on the idea of reducing the time and hassle of HR/benefits administration and compliance. And, the price seems right vs. hiring a full-time staff member. Companies need to be aware that they aren't necessarily getting quite as good a bundled-price deal if they overestimated the cost of separately acquiring benefits packages and HR services.

- Organizations should also research and understand the legal implications of a co-employer relationship. Unfortunately, companies who buy a comprehensive PEO package aren't really freed from the ultimate responsibility of employer-related liabilities – such as successful employee litigation for wrongful termination or harassment – although many PEOs strongly emphasize that benefit.
- When the PEO becomes your staff's employer, your employees now work for a larger company that's fully subject to employment/ERISA laws and regulations from which smaller companies are sometimes exempt. For a small office an FMLA obligation, for example, can be paralyzing.
- The Workers Compensation system in North Carolina is one of the most expensive and liberally regulated in the country. Employer fears regarding coverage costs and availability, and feelings of intimidation dealing with WC, are one of the biggest selling points for PEOs; they almost always bundle WC coverage and administration, obtained for all their client's employees under a single PEO umbrella, into every client's package of services. PEO renewal rates can be significantly higher because employers are rated on the PEO's collective claims experience rather than just the small employer's experience.
- Typically, there are 3 key functions you get out of a PEO relationship – payroll, benefits and HR expertise. You may find that numerous, low-cost high-quality providers were available to handle just payroll. Take time to seek out benefits providers and compare rates – an experienced broker can help with this. You may find comparable rates for health insurance and substantially lower rates for STD and LTD, than charged in the PEO plans. And regarding HR expertise, you already have access to HR Experts through your affiliation with Medical Mutual Insurance Company of North Carolina. HR compliance and employee relations advice is a phone call away!
- Prepare for annoying per-unit charges for services not covered by the basic fee – such as payroll changes, background checks or drug tests, and recruitment advertising. There may also be sizable contract-cancellation policies or aggravating restrictions on the typical 30-day opt-out clause you thought to be a contract escape hatch for any reason you were unhappy. Furthermore, keep your cool upon discovering these common provisions in the fine print under the much-touted full PEO assumption of liability: client's compliance with the most minute of technical contract details: partial responsibility for litigation legal fees: and required representation by the PEO's attorney – even if your company is a (co) defendant whose interests that attorney won't put first. Finally, don't expect to find an indemnification clause that fully protects your company if the PEO fails to perform.

- You really are in a different world when a PEO becomes your company's employer of record, and you'll know it the moment you communicate the transition to your employees. This fact is confusing to some employees.

Obviously, no PEO could stay in business if typical clients encountered most of these surprises. Many clients do, though, so proceed with utmost caution in considering, first, your possible need for and benefit from a PEO; second, whether contacting with a PEO would even be workable for your company; and finally, whether a careful analysis shows that the PEO route is clearly indicated vs. other alternatives. Analyze your payroll, benefits, and HR needs separately because sometimes contracting for these services separately makes the best business and financial sense.

Quarterly Quote

Every human has four endowments- self awareness, conscience, independent will, and creative imagination. These give us the ultimate human freedom... The power to choose, to respond, to change.

—Steven Covey



Frequently Asked Questions

- **If an employee is discharged for cause because they did not follow procedure or they failed to carry out a key job responsibility, why is my practice still charged for unemployment benefits?**

A: Throughout employment, the employer is responsible for providing the employee with the “tools” necessary to perform their job. Providing written policies and procedures are examples of such tools. Following the steps outlined below will help your practice demonstrate to the ESC that the employee was informed of expectations and consequences.

- ◇ Provide written procedures and policies to each employee.
- ◇ Provide written feedback to the employee and refer to appropriate procedures and policies. This does not have to be a formal performance appraisal. Documenting a conversation and providing a copy to the employee is acceptable.
- ◇ Inform the employee in writing of consequences should their performance continue to fall short of expectations.

- **I think one of my office workers is under the influence of alcohol at work. Can I have them tested?**

A: Yes, provided your Alcohol/Drug Policy contains the four statements similar to the following brief examples:

- ◇ The use, sale, dispensing, or possession of illegal drugs, narcotics, and alcoholic beverages on company property or during working hours is prohibited.
- ◇ Violation of the company’s alcohol and drug policy is grounds for immediate discharge.
- ◇ The company reserves the right to require any employees to present themselves for testing immediately following an employee’s involvement with an accident or for reasonable cause at the company’s discretion.
- ◇ Refusal by the employee to present themselves for testing or positive test results will result in discipline, up to and including immediate discharge.

- **Do I have to provide my employees with a break during the day?**

A: No, neither federal or state law requires an employer to provide a rest or meal break. However, if you do offer a break, federal law considers breaks lasting 5-20 minutes work-time that must be paid. Bona fide meal periods (typically lasting at least 30 minutes), serve a different purpose than coffee or snack breaks and, thus, are not work time and are not compensable.

- **We want to change/reduce PTO accruals, can we do this?**

A: Yes, an employer can change its wage agreement (including pay reductions and wage benefits such as PTO) with employees at any time. The employer must follow certain requirements pursuant to the NC Wage and Hour Act when making such changes:

- ◇ Notify your affected employee(s) in writing at least 24 hours prior to any changes that result in the reduction of pay or wage benefits.
- ◇ An employer cannot make any changes that result in the retroactive reduction of wages or wage benefits that are already earned.
- ◇ An employer cannot reduce an employee’s pay below the minimum wage.



HR|Experts
2900 Highwoods Blvd.
Raleigh, NC 27604-1060

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