

THE VOICE

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WINTER
2010

HR|experts

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2010 brings a few enhancements to the services offered by HR|Experts. These changes are designed to put HR tools and resources in your hands and many were made as a result of suggestions from you. A summary of the changes are provided below.

- This quarter's issue of The Voice is basically dedicated to two important subjects – Handbook development and COBRA. In future issues, you'll see a return of the Q&A format which will focus on common issues regarding Wage and Hour compliance.
- Monthly E-Alerts will continue to be sent to you via e-mail. Topics will include Wage & Hour facts, Poster requirements, Red Flag resources, Background Checks, and Drug Free Workplace information. Relevant E-Alerts will be stored on the Medical Mutual website for your reference. First time users will need to set up their log in account online before accessing Members Only information.
- Several resource guides will be produced this year including the Handbook Guide for Small Employers (refer to this issue's article 'Top 10 Recommended Handbook Policies') and a Compliance Guide for Small Employers. These resources are designed to provide you with tangible tools that you can use in your practice. Completion of each resource will be announced via e-mail.
- Free webinars/teleconferences will be offered on a bi-monthly basis this year through our relationship with CAI. Topics are currently being developed. You will be notified of upcoming events through e-mail.

I look forward to providing these resources to you as well as continuing to work with you through e-mail and over the phone. Please note that all of the resources above will be sent or announced through e-mail. If you do not currently receive The Voice via e-mail, send me your e-mail address now to be sure you don't miss important information – jill.schultz@callhrexpert.com.

Thank you for your calls and e-mails!



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



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Top 10 Recommended Handbook Policies

An employee handbook is a must for companies of all sizes. When properly developed and administered, an employee handbook is a powerful tool that can:

- Assist in recruitment and retention
- Promote uniformity and consistency in human resources administration
- Enhance employee-management communication
- Contribute to employee engagement and productivity
- Preserve an “at-will” employment relationship and help reduce and respond to employee-initiated legal actions
- Help maintain a union-free workplace

Beginning March 1, HR|Experts will offer a complimentary Employee Handbook Guide for Small Employers. In preparing an employee handbook, revising policies or adding new policies, the Employee Handbook Guide can be an extremely valuable resource. The Handbook Guide is not intended to render legal advice or to be all-inclusive. It is merely a guide to assist in your handbook development. As a snapshot of the Handbook Guide, the following 10 policies are recommended as a starting point.

1. Equal Employment Opportunity – There are six major federal equal employment laws that apply to employers. Your state may also have laws dealing with the subject of equal employment opportunity. While each specific federal and state regulation applies to employers depending on the number of employees, generally employers are prohibited from discriminating on the basis of race, color, religion, sex, age, national origin, military or veteran status, citizenship, and genetic information. As such, it is

recommended that every employer include an EEO statement in their handbook.

2. Employment-at-Will – Preserving your organization’s right to terminate employees is a key to preserving the flexible decision-making ability necessary to react to business events and opportunities. Federal and state laws and court decisions have begun to erode at-will status, with a continuing trend to limit employers’ rights to terminate at will. (Be sure to check State Laws for any laws that apply in your state(s)). Other employment-related laws also can limit employers’ freedom to fire at will by extending protection from retaliation. For instance, laws governing wages, workplace safety, labor-management relations, and workers’ compensation prohibit employers from firing employees for filing complaints under those laws. Many state courts have modified the concept of employment-at-will by finding that a discharge violates 1) some tenet of “public policy;” 2) an “implied employment contract,” based on either terms in an employee handbook or statements said during an interview, that limits the right to discharge; or 3) an “implied covenant of good faith and fair dealing.” For these reasons, it is important to include an “At-Will” statement to limit the risk of unintended promises and contractual statements. We recommend this statement be included in or follow the disciplinary procedures in your handbook in addition to the signed Receipt/Acknowledgement page of the handbook.

3. Separation of Employment – This policy should clearly state the conditions under which separation can occur (i.e., resignation,

involuntary termination, retirement); procedures to follow (i.e., required notice); and terms and conditions (i.e., benefits end date, fringe benefits forfeiture clause). Managing separations without a policy can lead to inconsistent practice and set your organization up for a discrimination claim or Department of Labor investigation.

4. Communication Systems – Do employees have an assumption of privacy when using company-provided e-mail, voice mail, or internet? This policy can help your organization set parameters regarding acceptable use of company communication systems and provide a basis for consistent enforcement if needed. A closely related social networking policy can also be included to help an employer set guidelines regarding when (or if) it is appropriate for employees to represent and make comments about the organization on social networking sites such as Facebook.

5. Employee Conduct – Perfect for managing a small practice, this policy combines zero tolerance standards for harassment, violence, and weapons in the workplace. A well-written policy will help you provide a safe work environment and manage complaints or incidents should they occur.

6. Alcohol/Drugs – Providing quality patient care and a safe workplace can be undermined by drug and alcohol abuse. Establish clear zero tolerance and for cause testing procedures before an incident occurs. Having a policy in place will enable you to respond quickly.

7. Disciplinary Procedures – Many of your policies or written warnings given to employees state that

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Is It Time for Your COBRA Check-Up?

With the recent extension and expansion of the ARRA COBRA premium subsidy, employers are once again performing their due diligence to prepare for the new compliance requirements. This time, however, the new provisions may also provide opportunities for employers to fully evaluate their COBRA program, as well as the qualifications and effectiveness of their COBRA administrator. With additional obligations in meeting deadlines, issuing new notices, and managing subsidy payments, it is more important than ever for businesses to ensure their COBRA program meets the needs of both the employee and the employer.

Keeping Up with Compliance

Many businesses have found it difficult just to keep pace with the requirements of the premium subsidy, which is why a third-party administrator (TPA) has become a popular option for COBRA administration. A well-run TPA often serves to protect employers from the fines and claims liability that can result from non-compliance with the most current COBRA regulations. The most effective TPAs have a solid footing when it comes to responding to new compliance issues in a timely manner and keeping their clients well-informed of their obligations. Prepared and accurate documentation, a thorough support staff, and a defined plan of action are all signs of an effective COBRA vendor.

Employers that self-administer COBRA will need a firm grasp on the new compliance considerations in regard

to the ARRA subsidy extension to 15 months and the eligibility period expansion to February 28, 2010. In addition to their usual obligations, employers must now ensure retroactive reinstatement of COBRA coverage for assistance-eligible individuals (AEIs) who have already exhausted their nine-month subsidy but have not paid the full premium. They must also notify AEIs regarding the subsidy extension and eligibility expansion, as well as reimburse them if they have overpaid their premiums. These requirements can be a great burden on the employer – unless a TPA can provide services to do the work for them.

Understanding the Services Provided

Depending on the vendor, there can be a wide variety of services available for COBRA administration. The employer should take note of which services are expected of the TPA, so they will understand if they are receiving the full value of their contract. Usually, a full-service COBRA administrator will issue notices and letters to qualified beneficiaries, collect and reconcile premiums, and provide eligibility reporting.

For self-administering employers, or for those that do not receive the above services from their TPAs, there are various resources available that can provide help. Most model notices are available at the COBRA page of the DOL website. Online services such as HealthcareHRAnswersNow available through Medical Mutual

at www.medicalmutualgroup.com offers helpful tools and forms that can ease the administrative strain on employers.

Providing Access to Support

When employees seek support from the employer, many expect replies to their requests will be made within 24 business hours – and the same can be said with respect to COBRA administrators. In fact, if the TPA cannot provide adequate response time, employees may bring their inquiries directly to the employer – which defeats the purpose of hiring a TPA in the first place. Whether responses are delivered through a TPA or not, employers should ensure that communication channels are in place to provide timely and adequate support for any issue that may arise.

Balancing Costs and Employee Satisfaction

For many employers, outsourcing COBRA is always a worth-while expenditure, especially considering how its administration is so often complex and cumbersome. However, doing so should never be cost prohibitive. Employers should always evaluate the fee structure with their current TPA and analyze if the agreement is cost-effective. In turn, it is also necessary to gauge employee satisfaction with the TPA's services, or the program in general if the employer is the administrator.

For more information, please contact HR|Experts – jill.schultz@callhrexperts.com.

Quarterly Quote

“It is not the employer who pays the wages. Employers only handle the money. It is the customer who pays the wages.”

- Henry Ford

Payroll Notice for Virginia Employers

Employers in CA, IL, LA, NJ, TX, and VA are required by state law to notify employees of the federal Earned Income Tax Credit (EITC). For details on each state's requirement and links to sample state notices (where available), see the article at http://legacy.americanpayroll.org/currently/pdfs/PC_issue24_11.pdf

EITC is a federal tax credit for low-to-middle income working individuals and families.



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“further violation may result in disciplinary action.” What exactly do we mean by that statement? This policy will help you establish progressive disciplinary steps appropriate for your organization’s culture and for virtually all scenarios leaving the employer with appropriate discretion to modify steps as needed.

- 8. Identity Theft Protection Act** – North Carolina employers are required to implement security measures regarding access to and the disposal of employee personal identifying information. These measures include policies and procedures regarding the destruction of paper and electronic records upon disposal of such. It is recommended that all businesses adopt a policy for properly disposing of employee records that include name, address, social security number, etc. as a best practice.

- 9. Benefits Continuation (COBRA and state continuation)**
 – COBRA applies to employers with 20 or more employees. However, states have mini-COBRA or state continuation laws that apply to employers with less than 20 employees. Communicate to your employees their rights to elect COBRA or mini-COBRA/State continuation insurance in order to maintain compliance.

- 10. Medical Leave (Non-FMLA and FMLA)** – Employers with 50 or more employees are required under federal law to offer leave per the Family and Medical Leave Act (FMLA). The FMLA was amended in 2008. Take this opportunity to update your policy to ensure compliance. And for employers with less than 50 employees, managing medical leaves consistently can quickly become complex due to leave extension requests, understaffing, poor employee communication, pregnancy discrimination laws, etc. Manage these extenuating circumstances by establishing a few parameters in advance.

Samples of the above policies are all included in the Handbook Guide for Small Employers (available March 1). To receive a copy of the Handbook Guide, send an e-mail to jill.schultz@callhrexpert.com.

Upcoming Training

Background Checks and the Law
 March 9 Raleigh; April 7 Greensboro

Managing Conflict in the Workplace
 March 17 Raleigh; Greensboro TBA

Developing Others Through Coaching
 March 26 Greensboro; April 28 Raleigh

Special rates offered to Medical Mutual policyholders. To register, contact Dawn Mooney at 919.713.5260. For additional programs visit www.capital.org.