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“HAPPY HOLIDAYS”

We at HR Answers, Inc. wish each of you, our kind readers, a very special Holiday Season. As you and your organizations move into 2010, we hope the New Year will be one of organizational progress and new opportunities, that your celebrations are joyous and special, and that you're able to spend time with friends and family. We're very proud and honored to have been given the privilege of working with you and serving so many of your HR needs in 2009. We value and appreciate you so very much!

To each of you we wish a Merry Christmas, Happy Hanukkah, Celebrate Kwanzaa, Feliz Navidad, God Jul, Frochliche Weihnachten, Buon Natale, Vesele Vianoce, Vrolyk Kerstfeest, Houska Joulua, Joyeux, Happy New Year, Kala Christougena, and Boze Narodzenie!

HRA UNVEILS RESOURCE FOR EMPLOYERS TO COMBAT WORKPLACE VIOLENCE

Workplace violence hurts! By some accounts, the workplace is considered to be the most dangerous place in America. If you've been watching television or reading the newspapers recently, you know that the Northwest has been no exception. In November, HR Answers was only 100 yards away from a shooting resulting in one death and two injuries after a husband drove to his wife's place of employment, shot her, and then turned the gun on himself.

It's a serious issue and one in which employers need to be involved and avoid putting up obstacles. Education, sensitivity, and awareness training alone are not enough. Policies, procedures, drills, and supervisory action need to be addressed. Take a look at some scary workplace statistics reported by the U.S. Bureau of Labor Statistics for the recent years:

- Simple assaults: 1.5 million annually
- Aggravated assaults: 396,000 annually
- Rapes/sexual assaults: 51,000 annually
- Robberies: 84,000 annually
- Homicides: nearly 1,000 annually
- Harassment: 43,800 annually
- Threats: 16,400 annually

What is the cost to employers? On the average, 500,000 employees lose 1,175,100 days of work each year due to workplace violence. Under the OSHA General Duty Clause, employers have an obligation to provide a safe workplace. However, research indicates that more than 70% of U.S. businesses have no policy or formal program in place to address workplace violence, even though it costs businesses \$70 billion a year, with \$64.4 billion attributed to lost workplace productivity.

In an effort to help employers be prepared for workplace violence and its aftermath, HR Answers, Inc. has created a Resource Guide titled “*Workplace Violence: Prevention and Management.*” The Guide covers:

- Assessment of the Organization's Risk
- Prevention Programs and Steps
- Reducing the Organization's Risk (claims and terminations)
- Samples and Forms
- Resources; regulating agencies and programs

HRA believes that every employer needs to address this topic; price cannot be a hindrance to that activity. **Therefore, as a professional courtesy, HR Answers is offering this Resource Guide in electronic format at no charge to any organization that requests it!!**

For more detailed information and/or to request an electronic copy of the free *Resource Guide* contact: Melissa Sambuceto at 503-885-9815 (Portland) or 877-287-4476 (outside Portland) or msambuceto@hranswers.com.

We strongly encourage employers to obtain this material and use it to actively plan so that workplace violence can be minimized as much as possible!

To get you thinking more about this topic we have three assignments for you (and your staff or safety committee).

Assignment 1: Describe at least two security measures you believe would be beneficial at your workplace to minimize possible risk factors for violence.

Assignment 2: Discuss the importance of confronting inappropriate behavior early-on and what should be the objective of early intervention.

Assignment 3: You've been assigned responsibility for developing violence prevention training for your organization. Describe the presentation strategies you would use and your reasons for using them.

Additional Resources for you include:

The National Domestic Violence Hotline (NDVH), headquartered in Austin, Texas, is a confidential 24/7 Hotline, established by Congress and funded by the Violence Against Women Act (VAWA). The confidential service provides crisis intervention, information, and referral to victims of domestic violence, perpetrators, friends, and families. Additional information may be obtained at www.ndvh.org or by calling 1-800-799-7233.

Human Rights Watch in New York. Their telephone number is (212) 290-4700 or you can reach them at www.hrw.org.

LOOKING FORWARD TO HIRING OR DEPARTURES?

A survey done by Right Management offers a gloomy perspective for the coming year. It is not, as you might think, that employers won't be hiring. It is rather that employers are fearful they are going to lose valuable talent as the hiring market begins to recover.

Survey results suggest the following:

- 60% of employees surveyed state that they "intend to leave."
- 21% say that they are "currently networking for a new position."
- 6% say that they have "updated my resume even though it is likely I will stay."
- Only 13% say "I intend to stay."

These are frightening statistics, especially considering that as business begins an up-tick, talented employees who know the organization and its operations will be even more valuable. It is hard to capitalize on growth opportunity with a large number of new employees.

A different recent survey shows what employers are thinking. The survey, done by BLR, found that more than 50% of employers believe that the top reason employees are not leaving is because there are so few employers hiring. If employers are relying on the scarce presence of positions as their primary way of hanging onto talent, that likely means they are not being pro-active in creating a positive workplace, appreciating employees, and continuing to develop skills and professional expertise. The failure to think ahead could condemn an employer to be one of the "biggest losers" when employees once again feel as though they have options.

It has never been more important to signal the value of employees, keep them informed of how the organization is doing, and thank them for their role in helping the organization sustain its efforts! Relationships with employees can be built and reinforced during tough times, but only if there is acknowledgment of the difference they make, and a plan for them to participate in the benefits of financial recovery.

Editor: Deborah Jeffries, PHR, CPC. Advantage is published monthly and is designed to provide information on regulations, HR practices and management ideas and concerns. The intended audience is managers, supervisors, business owners, human resource and employee relations professionals. If you have questions about the content, an opinion about the information, questions about your subscription, or if you need additional Advantage binders, please give us a call at (503) 885-9815 or e-mail djeffries@hranswers.com.

PSU CLASSES AT HR ANSWERS

Portland State University's popular HR Management Certificate Program is now offering courses in Tualatin as well as downtown Portland – right here at HR Answers, beginning January 4th. Same great program, same fabulous instructors (including our own Judy Clark and Kellye Wise), but an additional location to serve folks coming from Wilsonville or Salem, or anyone else who might find it more convenient than downtown! Start now and you can complete your entire certificate as early as June 16th. Visit www.pdc.pdx.edu/hr for details about the program, the certificate requirements, class schedules, and locations, or contact Elizabeth Snyder at 503-725-8085 with questions.

THOUGHTS TO THINK ABOUT

For in the end, freedom is a personal and lonely battle; and one faces down fears of today so that those of tomorrow might be engaged.

—Alice Walker

Happiness often sneaks in through a door you didn't know you left open.

—John Barrymore

When one door of happiness closes, another opens; but often we look so long at the closed door that we do not see the one which has opened for us.

—Helen Keller

Life is not easy for any of us. But what of that? We must have perseverance and, above all, confidence in ourselves. We must believe that we are gifted for something and that this thing must be attained.

—Marie Curie

If you find it in your heart to care for somebody else, you will have succeeded.

—Maya Angelou

The discipline you learn and character you build from setting and achieving a goal can be more valuable than the achievement of the goal itself.

—Bo Bennett

HR AND BUSINESS BY THE NUMBERS

As we regularly provide, here are updates and some new items coming in 2010, and some stats you can use for budgeting, supporting initiatives, sharing with co-workers, and the like.

It's been a long time coming, but the Department of Labor's mandatory electronic filing system for Form 5500s (known as EFAST2) is finally here!

Effective January 1, 2010, all Form 5500s must be filed electronically through the new system—and it starts with reporting for the 2009 plan year. If you're wondering about the nuances of the new system and your options for complying with the e-filing mandate, a 90-minute interactive audio conference will provide you with a detailed look at what you need to know. You'll get expert insights on EFAST2 and full explanations of all the changes to the form and schedules for 2009, including a practical discussion of how to deal with significantly expanded fee reporting on Schedule C.

Form 5500 hasn't changed this much in 10 years, and you'll be much better able to cope with the revisions after attending this informative session.

Just hop onto the Department of Labor's website to learn more!

* * * *

Unemployment. There are more Americans age 65 and older in the job market today than at any time in history - 6.6 million, compared with 4.1 million in 2001.

Less well known, though, is that nearly half a million workers 65 and older want to work but cannot find a job — more than five times the level early this decade and this group's highest unemployment level since the Great Depression.

The unemployment rate for older Americans is still much better than for others — 6.7% compared with 9.8% in the general population. But 6.7% is more than double the level of two years ago — and far higher than the minuscule 1.9% rate early this decade. And unemployed older workers stay out of work longer — 36.5 weeks on average, 40% longer than for the unemployed in general.

* * * *

Mileage. The IRS standard rate for mileage reimbursement will change...again. In 2010, the new reimbursement rates are as follows: regular mileage at \$.50, and \$.165 for medical and moving activities. Charitable driving is unchanged at \$.14 per mile.

* * * *

Getting Tough on Health Habits. Yet another year of rising health care costs. Some employers are forcing high-risk employees to pay more for their health care coverage in 2010.

While smoking surcharges remain the most popular added premium assessment used, the size has grown significantly from a nominal amount to what many are calling “real money,” in this tough economy. A few employers have gone a step further, relegating employees who decline to take better care of themselves to health plans that provide less coverage.

Some benefits law experts are concerned these employers may be pushing the envelope a bit too far, but recent legislation by the Senate Finance Committee appears to reinforce employers’ aggressive efforts to rein in health care costs through the use of incentives.

According to the 2009 Benefits & Talent Survey by Aon Consulting, a unit of Chicago-based Aon Corp., more than half of employers plan to introduce or expand an existing wellness program next year to lower their costs. Of those, 34% plan to either introduce or increase financial incentives for their wellness programs in 2010.

IncentOne, a company that tracks employer-provided wellness incentives, shared that the average cost per employee per year is \$400. The incentives range from gift cards, merchandise, premium discounts, co-payments, or deductible credits, to contributions to HSA’s or HRA’s.

CLIENT ACCOLADES

It’s always fun to offer our “Congrats!” and “Well Dones!” to clients in the news.

WOW!!! Recently the Business Journal listed the Top Nonprofits in Oregon. Of course many of those are our clients and we are so pleased for you all. So we would like to say **Kudo’s** to the following firms for making the list. And of course, we wish you continued success in your efforts, because what you do makes a difference!!!

Medical Teams International
Goodwill Industries of the Columbia/Willamette
Cascadia Behavioral Healthcare, Inc.
Oregon Food Bank
Albertina Kerr Centers
Central City Concern
Oregon Public Broadcasting
DePaul Industries
Oregon Museum of Science and Industry
YMCA of Columbia-Willamette
Shriners Hospital for Children
Education Northwest
Planned Parenthood of the Columbia/Willamette
Community Action
Volunteers of America Oregon
Portland Art Museum
Catholic Charities
Self Enhancement, Inc.
Dove Lewis Emergency Animal Hospital
ChristieCare
Portland Opera

Oregon Humane Society
Boys & Girls Aid Society
American Red Cross Oregon Trail Chapter
Regional Arts & Culture Council
Reach Community Development, Inc.
Oregon Ballet Theatre
Outside In
Guide Dogs for the Blind, Inc.
Ride Connection
Metropolitan Family Service
Girl Scouts of Oregon & SW Washington
The Oregon Historical Society
YWCA of Greater Portland
Boys & Girls Clubs of Portland Metro Area
Portland Children’s Museum
YWCA Clark County
New Avenues for Youth
Juvenile Rights Project, Inc.
United Cerebral Palsy of Oregon/SW Washington
1000 Friends of Oregon

Well done to Ride Connection, who recently published a book entitled *The Rider’s Voice*. Told in their own words, it is a book about people with disabilities and elderly individuals who have found greater personal freedom once they learned how to use and ride mass transportation.

Hats off to our friend **David Leslie**, the Executive Director at **Ecumenical Ministries** who recently received the Eugene Carson Blake Award. He was recognized at the annual conference of the National Council of Churches and Church World Service for his work in engaging people from many faith traditions in the pursuit of justice.

Fabulous!!! The Oregonian recently did a very nice story on **Sarah Stanley**, the founder of **Ornaments to Remember**. The piece ran in Sara Perry's "Favorite Things."

If you're celebrating an award or some special event, be sure to let us know. We don't want to miss it! We want to help spread the word, and give you a pat on the back, too!

Q AND A

Q: My employee says his child has H1N1 and he wants to take time from work as FMLA leave. Do I have to grant the request? In our business, it isn't convenient to have unplanned absences, especially during December.

A: If this particular case of H1N1 is a serious health condition as defined by the Act (required hospitalization and/or continued treatment by a healthcare provider), then the incident is FMLA qualifying. Given that the employee meets eligibility requirements for OFLA and/or FMLA, the leaves may run concurrently. Keep in mind that it is a "serious health condition," not a diagnosis that triggers Family and Medical Leave eligibility. Therefore, in some situations, H1N1 may qualify for FMLA and in other circumstances, it may not. You do have the right to get clarification via a medical certification from the child's healthcare provider; you do not have to (nor should you) depend upon the opinion of your employee. Also important to remember is that employees in the state of Oregon may be eligible for "sick child" leave under OFLA. This leave is for a non-serious health condition, when a child cannot attend school or daycare and there is no one else available to care for him/her.

ORGANIZATIONAL DEVELOPMENT

FEATURED SERVICE OF HR ANSWERS, INC.

From time to time organizations need to have strategic planning sessions where goal setting and mapping the future are addressed. Sometimes an individual within a firm needs coaching to enhance/adjust their contributions to the organization. In either case, HR Answers has been a resource for our clients.

Executive Coaching

HR Answers' coaches help staff members gain personal mastery in managing actual work issues as they occur. Whether it's fine tuning an executive's performance or dealing with employee behavior modification, HRA is here to help! It may be that all that's needed is some one-on-one time to clarify expectations. Coaching can yield dramatic personal and professional improvement.

We subscribe to the following:

- Commitment to process and outcomes
- Observation
- Assessment
- Challenging constructively
- Holding clients accountable and helping them move through resistance

We hear from clients:

"The coaching has been instrumental in helping to distinguish manageable challenges from more intractable ones, so that both could be addressed realistically."

Strategic Planning

HR Answers-led strategic planning helps clients take action and produce results – not just make plans that gather dust.

Our approach helps align key stakeholders, identify participants, define action steps, mobilize commitment, and achieve real results. Our consultants' versatility with a wide range of planning methods assists clients in attacking big challenges, both with small teams or entire organizations.

"HRA facilitated and guided us through the process...working with us to create clear objectives and action plans for operations and marketing."



Performance Strengthening Team

HR Answers consultants coach work groups, steering teams, executive teams, and design teams, helping them create order out of confusing complexity and coaching them to identify ambitious, yet achievable targets.

When appropriate, we use instruments such as the Myers-Briggs Type Indicator and 360° Performance Feedback to build awareness. Then we work with team members to:

1. Develop a road map
2. Focus commitment
3. Move into implementation
4. Build additional team capacity with evaluation

“The facilitator created an environment of trust – an openness that allowed the team to take risks and explore ideas that would not have been possible.”

“The workshop exceeded our expectations. Skills learned make [staff members] more effective in performing their jobs.”

360° Performance Improvement

360 degrees of multi-rater performance feedback lets key performers know how they are doing by identifying strengths, blind spots, and improvement opportunities.

“I have a clearer picture of how my people really see me. The one-on-one coaching helped me improve results by coupling performance feedback with realistic and achievable action plans.”

Facilitating Meetings

HR Answers consultants’ experience in designing and facilitating meetings produce memorable meetings and events – from the big picture to the minute details, including location, timing, participants, agenda, comfort and energy, meeting leadership, and much more. Our facilitators can bring high energy for dynamic creativity sessions or they can be a calm, reassuring presence in high stakes, highly charged sessions. Team building sessions are a common request for departments, executive teams, and new Boards. These sessions tend to be very interactive with a variety of exercises and activities to choose from.

“They orchestrated this event masterfully.”

“”Splendid program. Our Board members truly felt like the consultant helped them focus on the real goals of the association.”

“We had great fun doing the teambuilding exercises....they got everyone involved.”

WASHINGTON STATE: MEDICAL MARIJUANA

Employees’ Workplace Rights

A new decision from the Washington Court of Appeals, *Roe v. TeleTech Customer Care Management LLC*, provides a victory for employers who resist employees’ requests to accommodate their medical marijuana use.

The case involved an employee who, after two weeks of work, was terminated once she notified management that she was authorized by the State of Washington to use marijuana to treat her migraine headaches. The organization was unwilling to make an exception to its substance abuse policy, and terminated her when the results of a standard pre-employment drug test came back positive for marijuana.

The Court answered two questions on appeal. First, did the Washington State Medical Use of Marijuana Act (MUMA) imply a civil cause of action to sue an employer who refuses to accommodate employee use of marijuana? Second, for purposes of Washington’s wrongful discharge tort, does MUMA express a strong public policy in favor of medical marijuana use such that an employer who terminates an employee for off-duty medical marijuana use can be liable?

The Court answered “No” to both questions. On the first question, the Court found that although MUMA contains language suggesting its intent was broader than merely protecting Washington citizens from criminal prosecution for medical marijuana use, it was not so broad

as to protect an employee from discharge for being a medical marijuana user. In particular, the employee argued that language in MUMA stating that “Nothing in this chapter requires any accommodation of any medical use of marijuana in any place of employment” should be construed to mean that an employer is required to accommodate the medical use of marijuana by an employee off-site and off-duty. The Court disagreed with this overly technical interpretation, and found that the statute did not create a right for the employee to file suit against her employer. For essentially the same reasons, the court rejected the plaintiff’s wrongful discharge theory.

What about Oregon? This is a good decision for Washington employers, but the state of the law on accommodation of medical marijuana use in Oregon is still in flux. Because marijuana remains illegal under federal controlled substances law, there is no duty to accommodate medical marijuana under the federal ADA. For Oregon employers though, there is conflicting authority on whether employers have an obligation to accommodate medical marijuana use under the Oregon disability statute. The Oregon Supreme Court and the Oregon Court of Appeals have each had the opportunity to address the question but have declined to do so. BOLI, however, has taken the position that a temporary employee who sought to be hired on a permanent basis, but was not because of his medical marijuana use, presented substantial evidence of disability discrimination and failure to reasonably accommodate when there was evidence that he had performed his assignments capably. The Court of Appeals’ review of the BOLI determination, which declined to reach the merits of the reasonable accommodation claim and instead held that the employer had waived any objection to BOLI’s finding, is presently on appeal to the Oregon Supreme Court.

Until the Oregon Supreme Court provides more guidance on an employer’s duty to accommodate medical marijuana use, BOLI is likely to continue with its past interpretation. If you’re an Oregon employer, what should you do if an employee requests that you accommodate their “disability” by making an exception to the organization’s substance abuse policy to allow the use of medical marijuana? Follow your usual procedures for considering reasonable accommodations. Is the employee disabled? Is there another accommodation that would be reasonable and effective? Does the employee work in a safety-sensitive position? Would accommodating the applicant or employee using medical marijuana create an undue hardship? Although addressing medical marijuana issues presents employers with challenges, the reasonable accommodation process still allows the employer to choose the accommodation, as long as it is effective.

The general content of this article was provided by the attorneys of Barran Liebman.

FOR YOUR CALENDAR

Open up your Daytimers, computer calendars, Palm Pilots, and of course those Blackberries. The following is a look at upcoming events, special days and other diverse and fun activities you will want to be aware of and get scheduled. To register for our workshops, please call any of our offices, send an e-mail to Melissa Sambuceto at MSambuceto@hranswers.com, or simply register online at www.hranswers.com and click on the "Workshop Registration" tab at the top of the homepage.

DECEMBER

National Drunk and Drugged Driving Prevention, National Tie, Safe Toys and Gifts, Universal Human Rights, and World AIDS Month

Dec. 12th Hanukkah Begins

Dec. 16th National Chocolate Covered Anything Day

Dec. 21st Winter Solstice

**Dec. 25th Christmas: HRA Offices Closed
(closed afternoon of the 24th)**

Dec. 26th Kwanzaa Begins

JANUARY 2010

Jan 1st New Years Day: HRA Offices Closed

**Jan/June HRA Workshop Series (Tualatin Office)
Could I Be A Better Boss?
7:30 am – 9:30 am**

Cost: \$50 each or \$200 for the series

Jan 13 *Am I Clear About My Expectations?*

Feb 17 *When I Talk, Do They Really Listen and Understand?*

Mar 10 *Am I Really Managing Performance?*

Apr 14 *Do I Document Everything I Am Supposed To?*

May 12 *Do I Understand the Difference Between Managing and Leading?*

June 9 *Am I Motivating and Recognizing My Employees?*

**Jan 20th HRA Workshop (Tualatin Office)
Workplace Violence – Can It Be Prevented?
7:30 am – 9:30 am**

**Jan 26th HRA Workshop (Tualatin Office)
When Workplace Behaviors Need To Be Modified
7:30 am – 9:30 am**

**Jan 28th HRA Workshop (Tualatin Office)
Customer Service – From Good to Great;
Your Booster Shot
7:30 am – 9:30 am**

FEBRUARY 2010

**Feb 3rd HRA Workshop (Tualatin Office)
Positive Workplaces – How to Stay "Up"
Without Drugs
7:30 am – 9:30 am**

**Feb 4th HRA Workshop (Tualatin Office)
Adjusting to New Laws a Year Later
7:30 am – 9:30 am**

**Feb 9th HRA Workshop (Tualatin Office)
When Increasing Pay is Not an Option
7:30 am – 9:30 am**

**Feb 16th HRA Workshop (Tualatin Office)
Go Directly to Jail – What's the Liability?
7:30 am – 9:30 am**

**Feb 23rd HRA Workshop (Tualatin Office)
Critical Thinking Skills
7:30 am – 9:30 am**

**Feb 25th HRA Workshop (Tualatin Office)
Recognition in Tough Times
7:30 am – 9:30 am**

APRIL 2010

**April (Thurs. 1st – 29th) HRA Workshop Series (Tualatin Office)
Supervision Success – For Beginners
8:30 am – 12:30 pm**

ON MY SOAPBOX

Some months I struggle with what to write about. I have stated that in this column previously. Some months there are so many subjects, that choosing one is just as difficult as finding something to write about in the lean months.

This is one of many topic options, but I want to write about an article that's in this issue of our newsletter. I have an agenda, so I want to be clear about that right up front. We have included an offer of a **FREE Resource Guide on Workplace Violence** earlier in this issue. We are doing so, in part, because of the extraordinary number of incidents that have occurred in the Northwest over the past couple of months. We are also doing so because we believe it is the right thing to do!

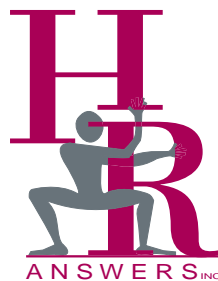
As the recession has gone on, eating up finances, employment opportunities have diminished, and as people's individual situations have become more challenging, coping skills have been exhausted. Individuals have felt pushed to and beyond the point of breaking. Common sense, rational thought, and problem-solving abilities have evaporated. Despair and the sense of loss expands until it fills every crevice of the person's thinking. The individual sees no way out, and the unthinkable becomes their reality.

Sometimes these individuals are in our workplace, but often they are simply related to someone who works for us. Because of that we have very little visibility on the extent of the problem. We can be surprised to discover how much danger and hopelessness surrounds a staff member.

But because of our employer status, we have to be prepared for the worst! The offered Resource Guide is our effort to help organizations prevent, as much as possible, a potential occurrence. Because of what happened just weeks ago, here in our own vicinity, I know firsthand how upsetting it can be to employees. I also know how much is being done to respond to that situation **AFTER** it occurred. That is just so sad! After-the-fact is not helpful; being as prepared as possible is.

I strongly encourage you to contact us, request the Guide (we'll send it electronically right away), and then talk with your employees. Share the appropriate information; read the suggestions for preventive actions you can take; encourage your employees to talk with you about strained relationships that threaten to spill over into the workplace; talk with your EAP (Employee Assistance Program), if you have one, about how they can help you reduce the stress your employees are experiencing; read books on the subject; get yourself smart about reasonable steps you can take. I know that seems like a lot, but learning all this **AFTER** something has occurred is too late. We never want to think about this occurring to any of us, but as several of my professional friends would attest, it can happen anywhere. Let's all do whatever we can to keep our employees, our visitors, and anyone else who happens to be nearby as safe as possible.

- Judy Clark, President



“Whatever the Question”

PLEASE FEEL FREE TO VISIT OUR WEBSITE:

WWW.HRANSWERS.COM