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FEDERAL AGENCY IMPLEMENTS NEW POSTER REQUIREMENT OUTLINING EMPLOYEE RIGHTS

Effective November 14, 2011, most private employers will have to post a new notice of employee rights, according to a rule issued by the National Labor Relations Board (NLRB). The NLRB is the federal agency responsible for overseeing employee rights to organize and bargain collectively with their employers, as well as engage or not engage in other protected activity on behalf of more than one employee. The agency administers the National Labor Relations Act (NLRA) and believes that many employees need the information communicated by the new notice to increase their knowledge of what rights are provided by the NLRA.

Because the NLRA applies to union and non-union workplaces, all private employers covered by the NLRA must meet the new posting requirement. This includes a broad range of employers, while those employers that are federal contractors are already covered by a similar requirement implemented by the Department of Labor (DOL). Employers already posting the DOL notice can use that notice to satisfy this new NLRB requirement as well. In addition, employers with at least 20% of employees who are not proficient in English and speak another language must also post translated notices.

The 11-by-17 inch notice of rights states that employees have the right to act together to improve wages and working conditions; to form, join, and assist a union; to bargain collectively with their employer; and to refrain from any of these activities. It also provides information about contacting the NLRB and filing a charge of an unfair labor practice. Providing this information to employees makes it important that employers also consider educating their management and supervisors on the various rights and how those rights may come into play in the workplace.

The notice, and translated notices, will be available at no cost from NLRB regional offices by November 1, 2011, available for download in black and white from the NLRB's website, and available from commercial suppliers of workplace posters. In addition to posting the notice of rights, employers must also post the notice on an intranet or internet site if personnel rules and policies are consistently posted there. Employers will not be required to distribute the notice via email, voice mail, text messaging, or related electronic communications even if they customarily communicate with their employees in that manner.

Failure to post the notice may be treated as an unfair labor practice, which is a violation of the National Labor Relations Act (NLRA). This can allow the NLRB to mandate posting. However, more significantly, if an employer fails to post the notice, the NLRB may extend the six-month statute of limitations for filing a complaint alleging other violations by the employer. If the employer knowingly and willfully fails to post the notice, the failure may be considered evidence of unlawful motive in an unfair labor practice case involving other alleged violations of the NLRA. These additional consequences go far beyond the actual posting requirement and should encourage every employer to meet the November posting deadline.

This new posting may generate some questions or employee conversations that are not necessarily employer-friendly. If you have further questions regarding the required NLRB posting, or about management education on the various NLRA rights for employees or responses to employee situations that arise from this posting, please contact us at 503-885-9815.

MAINTENANCE OF PERSONNEL FILES – RECORDKEEPING AND SEPARATE FILES

One of the most important areas of Human Resources is the use and maintenance of the employees' personnel files. In an ideal situation, the personnel files should show that all processes, policies, and forms used by the organization are being carried out thoroughly and consistently. In addition, the personnel files also maintain documentation that provides both practical and legal protection and management opportunity for an organization.

We'd like you to think of personnel files as "relationship files" that document how well you and your employees have been working together. Nothing in the personnel file should come as a surprise to the employee—in other words, they should have seen it or have complete knowledge of the contents. Often times a file review, however, will show omissions of materials that are described in the organization's Personnel Policies or Employee Handbook.

Let's take a look at what should be kept and how the information should best be kept. Recommended contents for employee personnel files are as follows:

For Current Employees:

- Employment application and resume
- Employment offer letter
- New employee orientation checklist
- Compensation information like: salary history, deductions, bonuses; special pay (tuition reimbursement for example)
- Original payroll set-up sheet, pay rate changes
- Promotions and/or demotions
- Apprenticeships
- Annual W-4
- All change notices with appropriate signature for salary/status changes
- Requests for any policy exception
- Benefit enrollment beneficiary information (or separately; contains information that may let those in hiring positions know of protected class information, such as sexual orientation)
- Employment, arbitration, and confidentiality agreements
- Copies of all performance evaluations, goals, and objectives
- Copies of all disciplinary or corrective actions
- Requests for Leave of Absence (if they contain medical information, place in a separate medical file)
- Copies of complimentary letters or notes
- Job training, courses or degrees taken during the job period
- Attendance (vacation days, sick days, personal days, family leave days, days absent without permission). **NOTE:** Some employers keep attendance files separately. The attendance file may contain the dates of family leave absences, but medical or family history records connected with family leave must be kept in a separate file.
- Any work limitations that supervisor or others should be aware of.

For Separated Employees:

- Copy of resignation
- COBRA notification
- Exit interview notes
- Continuation notices (i.e. life insurance, STD, etc.)

The following items should be maintained in separate files:

- Immigration (I-9) forms – Maintain this information in a separate file to reduce the opportunity for an auditor to pursue and investigate unrelated information.
- Medical records – The Americans with Disabilities Act and HIPAA requires employers to keep all medical records separate. This includes physical examinations, medical leaves, workers' compensation claims, drug and alcohol testing, and Dr's notes containing medical condition information.
- Genetic Information – Separate from the medical records mentioned above is documentation pertaining to employees' genetic information. Under the Genetic Information Nondiscrimination Act (GINA), covered employers are prohibited from requesting, requiring,

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.

or purchasing genetic information. While there are specific, limited situations where the organization may obtain and retain this information, any genetic information should be kept distinct from other medical information.

- **Equal Employment Opportunity** – To minimize claims of discrimination, keep documents that identify an individual’s race and sex in a separate file.
- **Benefit information** is often kept in the payroll file, which may also contain vacation requests, records of hours worked, beneficiary designations, etc.
- **Reference check information** – For confidentiality reasons, this information should be maintained in the job opening file created as part of the recruitment process.

We suggest that organizations perform a self-audit to ensure the files contain all of the material that they should and are void of the improper materials. Periodically, check employment records and remove or correct irrelevant, outdated, misleading, or inaccurate information. Of course, all personnel files should be kept under lock and key and access should be extremely limited to only those with a bona-fide need to know.

Some additional guidelines include:

- **Protected status.** Information specifically identifying race, gender, age, ethnic group, disability, or religion should be kept separate from the employee’s personnel files. This will aid collection of AAP or EEO-1 information.
- **Family/dependent records.** Any family history, whether medical or otherwise, must be kept in a separate file and in a separate place, in a file cabinet or locked computer file. If the employee’s health insurance covers the employee’s dependents, these records may be kept with the employee’s other family records, but must be separate from the employee’s personnel files.
- **Medical records.** Medical exams, medical history, and anything else medical must be stored separately, and access to these records strictly governed by a “need to know” policy. Remember, genetic information is to be separately maintained from the medical records.
- **Payroll records.** Generally, these are maintained for all employees by pay period, and are not kept in the individual worker’s personnel file. They record the work period, straight and overtime hours worked, pay rate, deductions/additions, garnishments, wages paid, etc.
- **I-9s.** Employers should keep all I-9s in a separate folder. Immigration law doesn’t mandate this, but it reduces the files open to inspection. That is, a federal review of I-9s will not open all of the organization’s records to the inspector.
- **Reference Checks.** References obtained on new employees during the hiring process should be kept in a confidential envelope or a separate job file. As said above, we prefer that they be retained in the job vacancy file.
- **Investigation Documentation.** Investigation notes and related information should be maintained in a separate, secure file away from the personnel files. While related corrective action or summary reports from an investigation may be included in an employee’s personnel file, the documentation compiled during the course of the investigation should be maintained securely and separately.

For Former Employees:

Employers should keep records about former employees for at least five years. It is wise to keep copies of resignation and COBRA notification in these files too. Larger employers often use commercial record retention companies to hold these records. In addition, various federal and state laws require the retention of certain records, such as Workers’ Compensation which in the case of injury or illness are required to be kept for 30 years. Employers should be aware of and review the various applicable laws to ensure compliance.

Another question we often get is about keeping personnel records on the computer or on microfilm, even in the cloud, instead of paper. **Yes.** None of the basic federal employment laws specify in what form you must retain records. Some points are specified by some of the statutes that your organization should apply to all of your records.

- **Safety.** Many of the records are required by law, and all of them are potentially important to your business. Whether you keep your files on paper, computer, or microfilm, make sure they are protected from damage or loss.
- **Accessibility.** If the Immigration and Naturalization Service (INS), the EEOC, the Department of Labor, or any other government agency conducts an audit, it requires that files be readily accessible and readable. Additionally, those agencies frequently require that certain forms be photocopied, so make sure copying can be easily accomplished.
- **Privacy.** It is essential, and often mandated, that disclosure of personnel files be made only to those with a “need to know.” Therefore, if the files cannot be locked up, passwords or other security tools must be used to protect the privacy of your employees’ files. Medical files should still be kept separately from files that are used to make employment-related decisions.
- **Special Requirements.** Sometimes records must contain information that is not easily scanned or photocopied; special arrangements may have to be made to ensure compliance. As another example, OSHA specifies that chest x-rays, unlike other x-rays, may not be placed on microfilm.

Record retention is critical in any type of organization. Accurate records frequently reduce potential liabilities. A strong defense in an employment-related lawsuit typically relies on the documentation kept by the managers involved in the situation. All records pertaining to any litigation must be kept for the duration of the litigation. Additionally, most of the federal employment laws do have specific time requirements for how long certain records must be kept (usually ranging from one to 4 years). It is crucial that organizations ensure they are complying with these requirements.

After the organization ensures compliance with the record retention time periods of the relevant laws, it is possible to select the type of recordkeeping form or method that best suits the organization's needs. Whichever form or method the organization selects for the retention of personnel records, the key is to make sure that the records are maintained accurately and efficiently. As always, if you have questions or concerns about any of this, just give us a call.

SALARY BUDGET PLANNING FOR 2011-2012

This is the time of year when several of the major compensation firms provide projections of salary budget and salary structure increases for the following year. There is a distinct difference between the two. Salary increase budgets are a percentage of current payroll that is dedicated to salary increases. A salary structure is a hierarchy of pay ranges with established minimums and maximums. Salary structure adjustments are the percentage by which employers anticipate increasing pay ranges.

Projections for both salary budget and salary structure increases are based upon employer surveys of compensation practices for the current and subsequent years. Overall, salary increase budgets grew for the second year in a row and averaged 2.8% across all organizations and industries for 2011. About 7% to 10% of organizations reported no salary increase budgets for this year.

Results from the recently released *WorldatWork 2011-2012 Salary Budget Survey* indicate that across the country employers are budgeting an average of 2.9% of payroll for 2012 salary increases across all employee groups (exempt, non-exempt, and executives) – a slight increase from 2011. Salary budgets for pay increases continue to remain below the average of 3.9% organizations reported for 2007 and 2008. Across the state of Oregon and in Portland, employers project slightly higher salary increase budgets of 3% for 2012. Across Washington, the number is projected at 3.1%.

As in the past, survey respondents (N=2,466) also indicated that the amount of an individual's salary increase will vary between 2 to 4 percent depending upon employee performance level. Low performers may either receive no or less than a 1% increase, middle performers about 2.7%, and high performers an average of 4%. Most organizations award pay increases every 12 months.

The *WorldatWork 2011-2012 Salary Budget Survey* also reports that organizations anticipate increasing pay ranges by an average of 1.9% in 2012, and pay range adjustments averaged 1.5% during 2011. Approximately 18% of survey participants anticipate no salary structure increases next year. Salary structure adjustments remain lower than the average of 2.5% reported in 2008.

The 2011-2012 Annual Salary Budget Planning Survey conducted by Compensation Resources reports that nationally organizations project salary increase budgets of 2.5% for executive, management, and salaried exempt positions; and slightly lower budget increases of 2% for non-exempt positions. These projections remain static from 2011. The survey also indicates employers plan to adjust salary structures by an average of 1.1% in 2012. Results vary by organizational revenue and employment size.

Aon Hewitt's recent salary planning survey reports that organizations project base salary increases of 2.9% in 2012 for both salaried and hourly positions. The survey of 1,494 large U.S. companies also indicates an increase in the use of variable pay plans or performance-based award programs. Seventy-eight percent of employers offered variable pay in 2005 and in 2011 this increased to 92% of employers.

The Conference Board's recent sample of 415 organizations indicates plans for salary increase budgets of 3% for 2012. This is an indication that economic recovery is still taking place slowly.

Survey results reported by the global consulting firm Hay Group indicate employer projections for median pay increases of 3% in 2012 for executives, middle management, supervisory and clerical positions. This information was provided by 310 organizations across the country.

According to Mercer's *2011-2012 US Compensation Planning Survey*, the average increase in employee base pay is projected to be 3% in 2012 and represents a slight increase from 2.9% in 2011. Ninety-seven percent of organizations are planning to increase employees' base pay next year, and 50% of those surveyed report higher pay increases in 2012 than those awarded in 2011. Employers also plan to continue differentiating pay based on performance, and increases are estimated to range from 1.2% for a low performer to 2.8% for a middle-rated performer to 4.4% for the highest rated.

A survey by Towers Watson reports employers are projecting salary increases of 2.8% in 2012 for salaried non-executive employees, and represents a moderate increase from this year. The same survey indicates that median salary increases will vary from 1.4% for below-average performers to 4.5% for the highest performance ratings.

While each survey source indicates slightly different results, the salary increase projections for 2012 are on the rise, albeit slowly, which indicates employers are a little more optimistic about economic recovery. If economic conditions stall or lag, then actual 2012 salary or pay structure increases may come in lower than projected.

VETS-100/100A

A Change! According to a special announcement on the website of the Department of Veterans' Employment and Training the due date for VETS-100/100A filing deadlines, normally set for September 30 **has been moved to November 30!** The reason for the move is due to some technical challenges with their system. The Department expects the electronic filing system to be back on line October 1st.

THOUGHTS TO THINK ABOUT

“Knowing yourself is the beginning of all wisdom.”

– Aristotle

“People may fail many times, but they become failures only when they begin to blame someone else.”

– Anonymous

“We each need to let our intuition guide us, and then be willing to follow that guidance directly and fearlessly.”

– Shakti Gawain

“Always look at what you have left. Never look at what you have lost.”

– Robert H. Schuller

“Nobody gets to live life backward. Look ahead, that is where your future lies.”

– Ann Landers

“To keep a lamp burning, we have to keep putting oil in it.”

– Mother Teresa

“I DID NOT KNOW YOU DID THAT”

HR Assessments

As we announced in our last Advantage, each month we will cover a different service offering designed to advise you about what we do. We are starting with HR Assessments.

Each month we see a large number of HR-related issues making the headlines and often the words “illegal” or “unlawful” or “non-compliant” appear in the context. It’s as if our industry has become a hotbed of litigious activity reflective of society’s tendency to seek out opportunities to scream “foul” and seek restitution for the wrongs – perceived or actual – that are perpetrated in the workplace.

While it is true that ours is an industry focused on ensuring that an employer plays fair and by the rules, staying abreast of the ever-changing laws that govern the oversight of engaging and keeping employees can be daunting for an organization to manage. Oftentimes an employer creates an impulsive condition simply because last Wednesday’s laws changed on Monday and they didn’t get the internal memo until Friday!

Awareness, education, and training play huge roles in the successful management of an organization’s largest resource – its human capital. Frequently, HR Answers, Inc. is engaged by an organization to perform a simple HR-related task and in the process, by asking a few standard questions of the staff and management, we discover that policies, processes, and forms haven’t been reviewed or revised in quite some time! Compensation maybe out of sync with the current market. Job descriptions no longer reflect the responsibilities of the staff. Recruiting is handled by individuals with little or no training regarding what can or cannot be asked or said to a potential employee. Employees have no avenue for lodging concerns or raising awareness of an uncomfortable and tenuous situation. In general, things aren’t what they could or should be!

Does any of this ring true within your organization? When was the last time you dusted off the employee handbook and gave it a good review? Are there cobwebs on the labor law compliance posters in the break room? Are your current supervisors the same ones whose training occurred ten years ago when employment laws were different? Are the HR forms used for onboarding a new hire outdated?

Perhaps it's time to perform a review of human resources within your organization. As you move into a new year, this is a terrific time to take a look at how you're doing and what projects or activities you want and need to work on next year. Our team of experts can roll up their sleeves and give you a hand by performing a full HR Assessment. Our staff members can review your existing documents, audit those personnel files, and provide you with current language for the handbook, observations on the classification of jobs, and input to the need for some additional policies, given the changing and challenging workplace environment that is before us. The comprehensive report that is the end product of our HR Assessments can be your guide to making constructive changes and improvements in your HR functions.

MANAGING THE MANAGERS

Studies show that organizations are not adequately preparing their managers to take over new responsibilities and leadership roles. More than half of managers in one study said they had no management training at all. Yet now, more than ever, it's important for organizations to have managers who are able to retain and engage talented workers.

Combined with signs that the economy is recovering and employee retention may be more difficult than it has been in the past year or two, some HR analysts believe a "perfect storm" is brewing at some organizations. While managers are the captains guiding the direction of the organization, new studies have suggested organizations are veering off course when it comes to adequately preparing future managers for leadership roles.

A recent study by CareerBuilder found that more than one-quarter (26%) of managers said they weren't ready to become leaders when they started managing others, while more than half (58%) didn't receive any management training.

Another study by the American Management Association/Corporate Learning Solutions found that only about one-third (34%) of organizations are genuinely committed to succession planning, while about two in five (43%) said such planning was intermittent. And about three in 20 (14%) organizations said their senior management only pays "lip service" to such planning.

The natural consequence of this is that 42% of new managers don't understand what it takes to succeed, according to a study by Development Dimensions International. The DDI study also found that only one in 10 leaders were actually groomed for a management job and more than half (57%) reported that trial and error had the most influence in achieving their leadership abilities. Even after being a manager for up to two years, nearly one-third (30%) of them said they still don't understand what it takes to be successful, according to DDI. Without a formal management-training or succession plan, organizations often select a "manager by default" or promote the best individual contributor, rather than a leader with the desire, motivation, and skills necessary to effectively manage. This lack of planning represents a failure of both senior-level management and human resource leaders.

Many, HRA included, believe that it's up to HR to not only clearly define the role of a manager, but to stress the importance of managerial training and succession planning to upper-level management. HR should also stress the importance of current managers acting as employment coaches to their workers.

Budgetary constraints, a failure to understand the importance of adequately preparing future leaders, or an inability to find the time to focus on succession planning are the usual reasons HR leaders and managers fail in this area. We see this daily when supervisors and managers are now focusing more on getting work done as opposed to getting a team productive, motivated, and engaged, especially since they don't have the luxury of time or additional people.

A recent study by PricewaterhouseCoopers found that about eight in 10 (83%) CEOs of global corporations said they plan to change their strategies for managing talent in the next 12 months, and about two-thirds (65%) said they would invest in training and mentoring to retain and attract talent.

Yet now, more than ever, it is an essential task, due to the potential upcoming mass retirement of baby boomers as well as a general concern by CEOs about the lack of managerial talent to address the issue(s). There are a number of benefits that come from tackling these challenges: management coaching reduces errors, improves customer service, and enhances retention.

Employees are not an asset. The knowledge and experience the employees contain is the asset. So the organization's job is to build human capital by helping people learn and energize investment in the organization. Special assignments and projects that are outside the scope of their usual routine allow future managers to stretch their skills. HR can also help by identifying top performers -- those with empathy,



great communication skills, and a good rapport with their co-workers -- and provide them with management coaching. **HRA can help too! We offer a Supervisor Series!** This program has been offered for years, with many clients using this training as their resource for getting supervisors (those who are new, those being tapped for the future, and even some who are more experienced) the training they need to be successful. Check out our calendar in this newsletter for dates and times coming in October and November. You can also go to our website, click on the Workshop Registration tab at the top of the page, and see our write-up for the program series, or click on the link http://www.hranswers.com/services/training_reg.cfm for more information.

Managers must do more and more each year and definitely there is more and more for them to know in the HR arena. This program will help! If managers are not capable of providing intrinsic rewards, employees withdraw their human capital and will invest their time and energy in another organization.

Special thanks to Chandler Harris from LRP Publications for the data for this article.

CLIENT ACCOLADES

As reported by the Portland Business Journal, the Sierra Club has selected **Lewis and Clark College** as the “coolest” school in Oregon! Their selection was based on surveys that track energy supply, efficiency, food, academics, purchasing, transportation, waste management, administration, financial investments, and other initiatives. Congratulations to Lewis and Clark!

* * * *

Congratulations to **Bonneville Hot Springs Resort and Spa** for their recent appearance on the Portland Business Journal’s list of the Top 25 Northwest Resorts!

Q AND A

Question: A supervisor has singled out one employee's time and attendance as improper *although many other employees engage in the same practices and are not disciplined*. The employee was placed on administrative leave while being investigated and will be terminated unless she admits guilt and agrees to be demoted. This is a common practice with the employer. Please explain what, if any, liability risks the organization and supervisor may have for this practice.

Answer: Disciplining some employees, but not others for the same or similar conduct leaves employers vulnerable to claims of discrimination and retaliation. In this situation, an employer may face liability risks under federal, state, and local laws.

Additionally, singling out a certain employee for discipline while ignoring the same acts committed by other employees diminishes overall employee morale and conveys the dangerous message that management favors certain employees over others. This message, in and of itself, is a liability risk for the organization. However, it can also contribute to additional liability if it influences other employees to target the disciplined employee for harassing treatment due in part to their perception that they will not be punished because the disciplined employee is already considered a persona non grata by management.

HR LINK

Conversations have been increasing in organizations around the overall topic of health and wellness for employees. These conversations occur between individuals at various levels of responsibility within the organization and for a variety of reasons, from benefits expense to employee retention.

A goal for many individuals is to live a healthier lifestyle. This can be done by doing one small healthy action every day. We have found a resource for individuals to help discover how rewarding it is to focus on your well-being: *Daily Challenge*. On this website, they boast that one small action at a time is all it takes. Every day, they’ll send you a simple challenge that can inspire you little by little to live a healthier, happier life -- all while earning points and connecting with others on the same pursuit. Before you know it, small changes like eating an apple, going for a walk, and taking deep breaths can add up to lasting change.

Members begin focused on Everyday Well-Being and can then choose other Tracks to participate in. Tracks are specialized sets of challenges to be completed over 28 days, and they enable members to choose the exact area of well-being — from healthy eating and family health to flexibility and stress relief — that matters most to them.

To learn more visit: <http://www.meyouhealth.com/daily-challenge/>



HEALTH CARE REFORM: PROPOSED REGULATIONS INCLUDE GUIDANCE FOR EMPLOYERS SESSION

In a flurry of activity in the last week, the agencies vested with defining the specifics of health care reform released proposed regulations on several issues important to employers, while the 11th Circuit issued its decision on the constitutionality of health care reform. Here are the *New Regulations*.

Premium Tax Credit. The Internal Revenue Service (IRS) released regulations providing guidance on the premium tax credit provided under the health care reform law. The tax credit, which will become available in 2014, is designed to provide assistance for low-income individuals purchasing insurance through the state-based exchanges (see below) that will begin to operate in the same year. Individual eligibility for the tax credit is an important issue for employers because businesses offering a health plan that fails to provide “minimum essential coverage” will be assessed \$3,000 per employee who takes advantage of the tax credit to purchase coverage through an exchange.

While the contours of minimum essential coverage remain vague, the new regulations specify that a plan will not be deemed to provide minimum essential coverage unless it is affordable and provides minimum value. The regulations further state that a plan is deemed affordable if the portion of the premium an employee must pay does not exceed 9.5% (subject to adjustment) of the employee's household income. Minimum value exists if at least 60% of premiums are allocated to be spent on providing benefits. Grandfathered health plans will be deemed to offer minimum essential coverage.

Exchanges. In conjunction with the IRS's guidance, the Department of Health and Human Services (HHS) released proposed rules implementing certain functions of the insurance exchanges required under health care reform. The exchanges, which are required to function at the state level beginning in 2014, are designed to operate as a marketplace through which individuals and small businesses can purchase health insurance. While the three new regulations focus largely on the functions of the exchanges in the individual market, the regulations are instructive to employers in that they provide the mechanism through which HHS will assess employer responsibility related to provided tax credits, along with additional information related to the small-employer segment of the exchanges (SHOP). Specifically, the regulations state that: “Where an individual receives a premium tax credit or cost-sharing reduction for coverage through an exchange because an employer has failed to provide minimum essential coverage, the exchange is required to report the individual's information to HHS to assess employer responsibility.”

As provided in the legislation, employers with less than 100 employees will be eligible to participate in SHOP beginning in 2014. However, the regulations provide guidance concerning an employer's obligations to disseminate information about SHOP enrollment procedures, the process for submitting contributions for health coverage, special enrollment periods for employees hired outside the initial and annual enrollment periods, an employer's responsibility to alert the exchange in response to changes in employee status, and automatic renewals of existing coverage when an employer fails to change its elections.

Summary of Benefits and Coverage. Beginning March 23, 2012, group health insurance issuers and administrators will be required to provide summary benefits of coverage (SBC) as part of any written application materials, upon a change in or renewal of coverage, or upon request by a group health plan, its sponsor, or a participant. While the obligation to provide a SBC is not a new requirement, the regulations provide guidance as to the content and coordination of distribution. Employers with insured plans can look to their insurers to create these required summaries, but they should work with insurers to ensure that the summaries are distributed properly because, as plan administrators, they bear responsibility to ensure distribution. We encourage you to not overlook this upcoming requirement.

Judicial Updates. In the ongoing court battle over health care reform, on August 12, 2011, a federal appeals court determined that certain aspects of the health care reform law are unconstitutional. This decision, which joins prior court decisions finding both in favor and against the law, does not affect employers' obligations to comply with the law at this point, but it does provide further assurances that the Supreme Court will ultimately decide the constitutionality of the law. The Supreme Court has not yet agreed to hear the matter, and is not likely to hear arguments on the issue until fall of 2012, but it could ultimately decide the issue as early as spring 2012.

Special appreciation to the Barran Liebman attorneys for permission to reprint this article.

FOR YOUR CALENDAR

Open up your Daytimers, Outlook, Palm Pilots, and all those Smart Phones. 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.

SEPTEMBER

Apple, Baby Safety, International People Skills, International Self-Awareness, Leukemia and Lymphoma Awareness, and National Fruit and Veggies Month

Sept. 9th Stand Up to Cancer Day

Sept. 11th Remembrance Day

Sept. 13th International Chocolate Day

Sept. 18th National Respect Day

Sept. 21st Wellness Summit
\$75 until August 17th, then \$100
For more information contact COLENE.

CARROLL@HEART.ORG

Sept. 23rd Autumn Equinox

Sept. 25th National One Hit Wonder Day

**Sept. 29th HRA Workshop (Tualatin)
Conflict Styles in Organizations w/ Chris
Sheesley
8:30 a.m. - 12:30 p.m.**

Planning Ahead...

Hooray! October 4th is Cinnamon Roll Day – plan to celebrate!!

Oct 5-7 NHRMA Annual Conference
Bellevue, WA
www.nhrmaconference.org/2011
Judy Clark will be speaking, and HRA will have a booth. Please come and visit us!

**Oct. 19th HRA Workshop (Tualatin)
Get Organized for Maximum Productivity
With SIMPLIFIED SOLUTIONS
8:30 a.m.–3:30 p.m.**

**Oct/Nov HRA Workshop (Tualatin)
Supervisory Success Series
Oct. 18th, 25th, Nov. 1st, 8th, 15th, & 22nd
8:30 a.m. – 12:30 p.m.**

The Commerce Company is offering programs this fall that are likely to be of interest to HR professionals:

Sept. 29th ERISA Obligations: Protect Yourself, Your Boss and the Company
Presented by Jeff D. Bean, QKA, Principal, Pension Plan Specialist

Oct. 13th Stop Litigation Before It Starts: Privacy & Electronic Communication Traps
Presented by Shane Swilley, Associate Attorney, Cosgrave Vergeer Kester LLP

**Oct. 25th Your 2011 HR Booster Shot: Updates, Trends, and Impacts
Presented by Judy Clark, SPHR, President, HR Answers, Inc.**

Nov. 3rd Regulatory Update: ADA, FMLA, Medical Marijuana, and More
Presented by Jenna Reed, Director of Human Resource Development Services, Cascade Employers Association

Nov. 9th Reduce Employee Turnover: Select, Engage, and Retain
Presented by Gaylyn Sher-Jan, President, OnCourse Group, Inc.

Programs will be held from 11:30 a.m. - 1:00 p.m. Cheatham Hall | World Forestry Center | 4033 SW Canyon Rd | Portland. \$15 per session. To register, visit www.thecommco.com, call (503) 203-8510, or email Series2011@thecommco.com

ON MY SOAPBOX

This is a remembrance month. For those of us 12 years of age or so, ten years ago we all experienced something that will dwell inside us as long as we live. And so in the spirit of remembrance, I share with you a piece of soapbox history – the text I wrote after visiting Ground Zero just 8 months after 9/11. I hope these words still have value for you. I know that in re-reading them a couple of nights ago, they resonate with me.

“One evening in the middle of April, I met the nicest man. I needed help to do something important to me, and he went beyond helpful. He ensured that my personal mission was achieved.

I was in New York City on the last night that the beams of light pierced the darkness above Ground Zero in Manhattan. When I first learned that I would be making a trip to New York City, I began thinking about what might be possible for me to do while I was there. It isn’t accurate to say that I “wanted” to visit the site of the World Trade Center towers □ it would be more exact to say that I felt obligated, compelled to stand there and pay homage to the lives lost; to recognize the life-altering events of that tragic day.

A meeting and dinner were planned for that evening. The group I was with walked together from the hotel to a restaurant where we enjoyed a plentiful meal of good food spiced with laughter and invigorating conversation. As we were finishing our after-dinner coffee, I explained that I wouldn’t be walking back to the hotel with them, as I wanted to make a side trip. I mentioned my plans, and was cautioned to be very careful while out on the streets. I’m unfamiliar with New York City, and having heard many stories of the dangers and difficulties that others have experienced, I felt anxious as I headed off alone to find a cab.

But, on this night, I was *not* alone in the city, or in my efforts to honor and acknowledge. My partner in those efforts was a cab driver who understood this was a momentous event for me. As I entered his cab, I uttered just a few words about my intentions. He didn’t need me to elaborate, which was a good thing because the torrent of emotions flooding through me was already making it difficult for me to talk. The driver said he would get me to the best place for both viewing the lights and having an opportunity for “personal minutes.”

He headed towards the tip of Manhattan. The night sky was a combination of fog, clouds, and clearing. As he drove, he talked about people he knew and what they had experienced on the 11th of September and the following days. He didn’t ask questions, he just shared. Some of the stories were very sad, and some were stirring. Some were quite personal, and others were the re-telling of stories he had heard from others. He seemed to know that I just needed to connect, to integrate myself with what had happened.

As we drew closer, he stopped for a minute, looked around, then said he thought he could find a better spot. We drove for a few minutes more, then he stopped again. He did this four or five times before he found just the right place, declaring, “Here, this is the best spot. You can see the lights. You can walk here and be safe, and I can see you from the taxi. You go □ take time, think and feel this place; I will wait right here for you.”

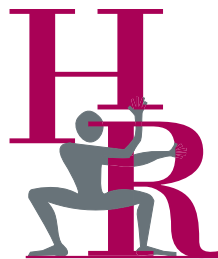
There are no words to describe what I thought or felt that evening as I stood there so near the lights, so near the ground turned sacred. I don’t even really know how long I was away from the cab. I walked, reflected, remembered, and prayed for all those lost and hurt. The pain was great, but it was also a cleansing time. I could look at the beams of light reaching to the heavens and see them as ladders allowing thoughts and prayers to reach those who had left us. As a cloud passed over, the lights from the ground bounced back, and it took little imagination to feel a message of comfort and reassurance being sent back to each of us still here on earth.

The ride back to my hotel was a quieter trip. The driver seemed to know that I needed time to collect my emotions. But he did pose one question, the only one he asked me that evening. “Do people where you live still care so much?” My tears flowed as I told him, “We all care very much, and we are still hurting for what you endured here.”

I don’t know what country he was from, or how long he has been in the United States. I usually ask about those things, but I didn’t on this evening. I only know that he was the nicest, most helpful New York cab driver anyone could want to meet, and that he was everything I needed that evening. I didn’t feel alone. I felt supported as I confronted the horror and reverence that are Ground Zero.”

Postscript from 2011: We still care, it still hurts, and it still matters!

- Judy Clark, President



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“Whatever the Question”

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