

Employee Issues and Legal Compliance:

A White Paper for HR Managers in the Healthcare and Medical Industry

Introduction: Employee issues and legal compliance are a necessary aspect of human resources management. Even so, many in human resources (HR) feel that staying abreast of the laws, policies, procedures, and documentation requirements takes valuable time away from focusing on what matters most to the operation: ensuring that employees are acting and being treated professionally.

Given that recruiting, screening, interviewing, hiring, administration, and payroll are all challenging tasks, finding enough time to also research compliance and employee issues can be a difficulty for some. But, it's the job of every HR manager and specialist to know the laws and keep the organization compliant with all relevant legal requirements and legislation. Without compliance, the practice or the healthcare facility may be vulnerable to costly fines and lawsuits.

The list of laws for which the HR department should be well aware

include Affirmative Action (AA), Equal Employment Opportunity (EEO), Fair Labor Standards Act (FLSA), Family Medical Leave Act (FMLA), Occupational Safety & Health Act (OSHA), Immigration Reform and Control Act (IRCA), Workers' Compensation, Americans with Disabilities Act (ADA), as well as those laws that govern drug testing, overtime, documentation and recordkeeping.

Unfortunately, these laws governing employee issues and compliance can be difficult to understand. They change frequently, and without much notice. To stay well-informed and up-to-date on the legal requirements that may impact their practice or facility, some HR departments turn to the aid of an HR consultant or corporate attorney for help.

The expertise brought by an HR consultant can help a busy healthcare operation avoid a catastrophe. It's understood that not all HR departments have the budget to hire professional

consultants or legal counsel, but given the fact that HR effectiveness depends on a thorough understanding of compliance issues, some may be left wondering how to develop efficient systems for remaining informed and compliant without tipping the organization into the red.

The rest of this white paper will describe some of the common practices employed by HR managers and HR departments for staying up-to-date and informed on employee issues and legal compliance that affect their people and work environments. Examples and advice have been drawn from conversations and interviews with a number of HR specialists and practice managers who have openly shared their knowledge and experience.

First, be informed. Understand that state and federal laws change frequently. These laws govern how your practice or hospital operates in many respects. Failure to align your HR strategy with legal compliance can result in steep fines. It's

also important to note that the laws vary depending on the number of employees you have on staff. So, some aspects of the laws may not be relevant to your healthcare practice. If this creates a sense of bewilderment in members of your HR team, that's understandable. But if that's the case, there may be a genuine benefit in hiring the services of a professional agency that can consult with your practice or facility on exactly what you need to do in order to remain compliant.

If you don't have time to stay informed, hire an HR consultant.

Employment laws are often challenging to understand and interpret. Remember: ignorance of the law does not excuse liability. For human resources managers in the healthcare sector, there are litanies of state and federal regulations with which your healthcare practice must be compliant. But, for small offices or practices without the sage advice of an internal HR professional, or no one in the organization responsible for

assuring legal compliance, the effort to stay informed and compliant can be a difficult one to say the least. Fortunately, there is no lack of external help. As mentioned earlier, the knowledge and experience brought by a professional HR consultant—one who specializes in legal compliance—can help HR departments small and large address issues and care for their employees with all due attention and respect. And, at the same time, they can help to prevent any issues with the law that might cause a negative impact on the organization.

You can also subscribe to HR newsletters and updates from consulting sources.

There is much to be said for up-to-date information found in newsletters that can be easily read and understood—especially if the information is tailored to your practice. [The Society for Human Resource Management \(SHRM\)](#) publishes the HR Issues Update e-newsletter “every other week when Congress is in session.” This

publication details topics and issues in a jargon-free language. SHRM also publishes a variety of free newsletters that serve to keep their members informed about specific HR topics. The Employee Relations & Engagement e-newsletter covers policies, conduct and performance management. The Diversity e-newsletter covers topics such as gender issues, religious differences, as well as differences related to age, race, language, and family status. The Safety & Security e-newsletter includes updates on OSHA initiatives. And the Workplace Law Update offers a look at legislative and regulatory news.

For many HR managers and staffers, the SHRM site is an invaluable resource. SHRM was founded in 1948 and currently represents hundreds of thousands of members in countries all over the world. You can become a member and sign up for any number of newsletters at their official website.

Identify and define your particular needs and objectives.

There's truth to the idea that you can't create a strategic HR plan or a series of solutions to problems in the workplace if you haven't identified your HR strengths, weaknesses, and areas where improvement may be necessary. Many HR professionals will begin this investigational process by conducting an HR audit, one that looks at the entire environment—people, practices, policies, and procedures—in order to fully understand the details and complexities. At the very minimum, an HR audit should be able to show members of the HR team what needs to be done in the organization and how changes to compliance or best practices will impact individuals, departments, and the organization overall. Areas involved in an HR audit may include, but should not be limited to:

- Benefits administration including 401(k)

- Documentation of policies and procedures in the employee handbook
- Employee compensation and pay equity
- Employee performance reviews and appraisals
- Employer-employee relations
- Government reporting requirements
- Health, safety, and security policies and practices (Drug-Free Workplace, OSHA compliance, etc.)
- Legal compliance (FLSA, EEO, AA, ADA, FMLA, IRCA, etc.)
- Personnel data and record-keeping (W-2s, I-9s, W-4s, applications, etc.)
- Terminations and related documentation

Hire a consulting group for your HR audit.

There are many consulting groups that, for a fee, will come to your practice or facility and conduct an HR compliance and effectiveness audit. This, of course, comes with an associated cost to the HR department,

but they typically base their fee on the number of employees you have on-site. Although this may seem like it's an easy way to assess compliance and identify opportunities to improve the effectiveness of your team, it's best to keep in mind that a proper HR audit is highly specific to the environment and the workplace. Your people and workplace are unlike any other. As such, the hired consulting group should be given clear objectives and specific directions by your team. Once the audit (or investigation), report, and summary meeting have been performed, and the effectiveness of the existing HR programs has been measured, the hired consulting group may offer follow-up remediation or, at very least, a set of action plans and tools to help your HR team mitigate areas of risk and ensure legal compliance.

Develop efficient, consistent systems for productivity and morale.

One of the primary goals of the HR department is to attract, recruit and

hire quality employees. But, as many HR staff members know, the next challenge is to identify, create, and enforce systems that allow those employees to succeed in their positions and be comfortable in their work environment. Something as simple as establishing workplace rules, or as complex as instituting pay plans, provides necessary structure and consistency in the workplace. As such, the value of rules and systems cannot be overstated.

To see the importance of reliable HR systems, and the need for strict compliance, one only has to look at the concerns surrounding the basic minimum wage and overtime pay—something that affects most private and public employers. Here, an important piece of United States federal labor legislation governs what is appropriate, fair, and legal.

In regard to pay plans and compliance, it should be noted that many wage, work hours, and overtime pay provisions are

prescribed by the Fair Labor Standards Act (FLSA). The FLSA, which was adopted as a federal statute in 1938, affects employers of full-time and part-time workers in the public and private sector. As many HR managers and staff members know, understanding pay rates, work hours, and overtime hours is crucial to ensuring employees are treated fairly and equitably under the rules, regulations, and laws set by the FLSA. If, for any reason, the healthcare practice or hospital employs children under the age of 16, it should be noted that the rules and laws contain additional restrictions.

FLSA requirements also state that employers must be compliant with required recordkeeping, reporting, notices and posters for those subject to the FLSA's minimum wage provision. But, here's where it gets tricky: Paid time off (sick days, personal days, and vacation days) has no federal requirement, and the individual states have been left to determine regulations. From an HR

viewpoint, it's important to know where your state and your organization stands on time off. It's also important to create a formal written policy for paid time off.

Summary: Human Resources is a major administrative component with a broad subset of interests and functions. In a busy healthcare practice or hospital, there's no doubt that a variety of employee issues and legal compliance concerns will come up on a weekly basis. As such, it's understandable if an HR team isn't sure about how to correctly and efficiently handle each employee issue or complaint. Unfortunately, issues such as workplace injuries, violence, and harassment carry with them a number of liabilities for the organization. As the



practice or organization grows, so will the need for efficient, consistent systems that help define HR responses and decisions to these issues and many more.

This concludes Part 1 of our two-part white paper series on employee issues and legal compliance. In Part II, we'll look at delegation of duties and how to mitigate risk by utilizing new hires and outside HR agencies.

Major Research Links

<http://smallbusinessdoitbetter.com/2013/12/operating-a-small-business-without-a-dedicated-hr-department/>

<http://www.strategichrinc.com/legal-compliance.htm>

http://www.mohave.edu/documents/SBDC/Resources/HR%20_Employment_Law_Compliance_Guide_AZ_Employers.pdf

<http://www.strategichrinc.com/hr-audit.htm>

<http://www.shrm.org/Advocacy/GovernmentAffairsNews/HRIssuesUpdatee-Newsletter/Pages/default.aspx>

http://www.hr.com/en/communities/benefits/healthcare_legislation_and_compliance/

http://www.pebblehr.com/#!/page_Solutions

<http://www.greenoughgroup.com/wp-content/uploads/2011/07/GCG-HR-Audit.pdf>

<http://www.shrm.org/TemplatesTools/hrqa/Pages/WhatisanHRAudit.aspx>

<http://ipma-hr.org/sites/default/files/pdf/hrcenter/HR%20Audit.pdf>

http://humanresources.about.com/od/motivationsuccess/a/manage_systems.htm

<http://www.dol.gov/compliance/guide/minwage.htm#RRN>

http://www.hrscopy.com/site/small_businesses

<http://www.suny.edu/compliance/topics/Topics%20In%20Compliance.cfm>

<http://www.teamonelogistics.com/nearly-all-carriers-making-changes-for-health-care-law-tcp-says/>

<http://www.valencerg.com/hr-services-2/>

<http://hrpmsi.com/cost.php>

<http://www.evancarmichael.com/Human-Resources/3362/Operating-Without-A-Human-Resources-Department.html>

http://www.realmatch.com/what_we_do

<http://www.villanovau.com/human-resource-management-challenges/>

<http://www.dol.gov/whd/flsa/>

http://www.mindtools.com/pages/article/newLDR_98.htm

<http://ucsfhr.ucsf.edu/index.php/pubs/hrguidearticle/chapter-9-delegation/>