HR Alphabet Soup

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Let’s Get Cooking

- There are more than 180 federal laws governing employment in the U.S.
- Compliance is critical – for your business and for your bottom line.
Our Ingredients

• Letters in our HR Alphabet Soup

• ADA
• FMLA
• WC
• COBRA
• EEOC

• FLSA
• HIPAA
• OFCCP
• WHD
Bermuda Triangle of Labor Law

• What is the Bermuda Triangle of labor law compliance?
  • ADA, FMLA & WC
  • You can’t consider one without the others

• Keys to navigating it:
  • Knowing when each law applies
  • Knowing what each law requires
  • Understanding how they work together
Bermuda Triangle of Labor Law

• When, what, how:
  • Some cases may involve only **ONE** law
  • Some cases leaves may involve **TWO** of the laws
  • Others cases may involve all **THREE** laws

• Knowing how these three laws connect is key to maintaining compliance
ADA
Americans with Disabilities Act

www.ada.gov
Americans with Disabilities Act

• What is it?
  • Prohibits discrimination against AND
  • Guarantees equal opportunities for
  • People with disabilities

• Who is required to comply with ADA?
  • Employers with 15+ employees
Americans with Disabilities Act

• How to inquire about a disability
  • DO NOT ask employees/job candidates if they have a disability
  • If you’re concerned about an employee or candidate’s disability affecting production, stop and ask yourself:
    • How will we know how a disability will limit the ability of a person to perform?
    • Is this the best candidate for the job?
Americans with Disabilities Act

- Disabilities included under ADA:
  - Physical or mental impairments limiting a major life activity
  - Having a history or record of such an impairment
  - Being perceived by others as being impaired
• Visible vs. non-visible disabilities
  • You may already employ someone with a non-visible (or hidden) disability
• What are some common non-visible disabilities?
  • Diabetes
  • Depression
  • Anxiety disorders
  • Chronic fatigue
• Changes in behavior
Americans with Disabilities Act

- What is the interactive process?
  - Promotes discussions between the employee and employer
  - Discuss possible “reasonable accommodations”
- When is an accommodation reasonable or unreasonable?
  - Creates undue hardship for employer
  - Not all accommodations are the same
Americans with Disabilities Act

- Reasonable vs. unreasonable accommodations:
Americans with Disabilities Act

• Making accommodations while keeping your policy intact
“Can I discipline or terminate an employee with a disability?”
- Yes - must go through the interactive process

“Can we be sued for disciplining/terminating an employee with a disability?”
- Yes - going through the interactive process (and documenting it) helps protect employers

“Am I required to hire someone because he/she has a disability?”
- No - hiring decisions should be based on neutral and non-discriminatory reasons
FMLA
Family and Medical Leave Act
www.dol.gov/whd/fmla
Family and Medical Leave Act

• What is it?
  • Provides job/health protection benefits for qualified employees
  • 12 workweeks of **unpaid, job-protected leave** in a 12-month period

• Who is required to comply with FMLA?
  • Employers with at least **50 employees** in a 75-mile radius
To be eligible for FMLA leave an employee must:

- Work for a covered employer at a location in the U.S.
- Have worked for that employer for at least 12 months
- Have worked at least 1,250 hours in the 12-month period
Family and Medical Leave Act

- Under what circumstances is an employee eligible for FMLA leave?
  - For employee’s own serious health condition
  - For birth of a child and to care for the newborn
  - For the placement of a child for adoption or foster care
  - To care for an immediate family member with a serious health condition
Family and Medical Leave Act

• Notifying an employer of FMLA leave:
  • Employees are required to provide reasonable notice
    • Foreseeable leave: minimum 30-day notice
    • Emergent situations: as soon as possible

• Reasons FMLA leave might be denied
  • Not providing required notice
  • Insufficient certification

• Issuing the Notice of Eligibility
Family and Medical Leave Act

• Additional benefits/protections provided by FMLA:
  • Maintenance of group health insurance coverage
  • Job restoration

• Unlawful employer actions
  • Interfering/denying employee’s rights provided by FMLA
  • Discharge/discriminate against employees due to any involvement/activity related to FMLA leave
WC

Workers’ Compensation
Workers’ Compensation

• What is it?
  • Program facilitating required payments to employees who suffer work-related injuries/illnesses

• Most employees are covered by WC
  • Who’s definitely not covered?
    • Independent contractors
    • Volunteers
Workers’ Compensation

• What steps are required when an employee is injured on the job?
  • Report to immediate supervisor
  • Assess the severity of the injury
    • If urgent care is required, call 9-1-1
    • Notify OSHA, if applicable
  • Prepare Treatment Authorization Form
  • Escort injured employee to medical facility
  • Submit First Report of Injury Form to G&A Partners or workers’ compensation carrier
Workers’ Compensation

- What do we do if it is determined that an employee will not be able to work for an extended period of time?
- What do we do if the condition is permanent?
COBRA
Consolidated Omnibus Budget Reconciliation Act
www.dol.gov
COBRA

• **What is it?**
  • Federal law that requires employers to offer employees the option of continuing health benefits coverage

• **Who is required to comply with COBRA?**
  • Employers with 20+ employees
What types of events qualify for and initiate the COBRA process?

- Loss of a job
- Reduction in hours
- Death
- Divorce
EEOC
Equal Employment Opportunity Commission
www.eeoc.gov
EEOC

• What is it?
  • Federal enforcement agency
  • Oversees laws prohibiting discrimination

• Who is required to comply with EEOC rules?
  • Employers with 15+ employees
• Hostile work environment
  • Defined by offensive conduct aimed at one or more of the protected groups
  • Conduct that is severe and pervasive and results in an adverse employment decision
• A one-punch, two-punch knockout for Psych Hospital

• Psych Hospital pays more than $1 million in damages for discrimination charge:
  • EEOC charges of sex and gender harassment, in the amount of $580,000, and
  • Charges of a hostile work environment in the amount of $450,000
FLSA
Fair Labor Standards Act
www.dol.gov/whd/flsa
Fair Labor Standards Act

• What is it?
  • Establishes minimum wage and overtime pay standards

• Who is required to comply with the FLSA?
  • Private sector, federal, state and local government employers
Fair Labor Standards Act

- Non-exempt vs. exempt employees
- Most common exemptions:
  - Executive
  - Administrative
  - Professional
  - Outside sales
  - Certain computer-related occupations
HIPAA

Health Insurance Portability and Accountability Act

www.hhs.gov/hipaa
HIPAA

• What is it?
  • Gives employee’s rights over their health information
  • Sets rules and limits on who can look at and receive their personal health information (PHI)

• Who is required to comply with HIPAA?
  • Health plans
  • Health care clearinghouses
  • Health care providers who electronically transmit health information
OFCCP
Office of Federal Contract Compliance Programs
www.dol.gov/ofccp
• What is it?
  • Protects workers, promotes diversity and enforces laws related to federal government contractors/sub-contractors

• OFCCP Compliance reports
  • Affirmative Action Report
  • EEO-1 Report
OSHA
Occupational Safety and Health Administration
www.osha.gov
OSHA

• What is it?
  • Federal agency that assures safe and healthy workplaces by:
    • Setting and enforcing standards
    • Providing training
    • Conducting outreach
    • Providing education and assistance

• Who is covered by OSHA?
  • ALL employers are required to comply with OSHA regulations
• OSHA’s General Duty Clause
  • Employers are required to provide employees with a place of employment that is:
  • Free from recognizable hazards that are causing or likely to cause serious harm/death
### OSHA

#### Penalties for noncompliance:

<table>
<thead>
<tr>
<th>Type of Violation</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serious</td>
<td>$12,675 per violation</td>
</tr>
<tr>
<td>Other-Than-Serious Posting Requirements</td>
<td></td>
</tr>
<tr>
<td>Failure to Abate</td>
<td>$12,675 per day beyond the abatement date</td>
</tr>
<tr>
<td>Willful or Repeated</td>
<td>$126,749 per violation</td>
</tr>
</tbody>
</table>

*Adjusted for inflation as of Jan. 13, 2017*
WHD
Wage and Hour Division
www.dol.gov.whd
What is it?
- Federal agency that administers and enforces many of the Federal labor laws

WHD enforcement responsibilities:
- Minimum wage
- Overtime pay
- Child labor
- Migrant and seasonal worker protections
- Prevailing wages for government-funded service and construction contracts
Soup’s On

G&A Partners is here to HELP with the many challenges you may face in the WORLD OF LABOR LAW.
Q&A
If we didn’t get to your question during today’s presentation, tweet us (@GAPartners) using #AskMDE, and our experts will reply with an answer shortly!

Or, you can email your questions to info@gnapartners.com.
Reminders

• The recording of this webinar will be available on the G&A Partners website soon (www.gnapartners.com).

• This webinar has been pre-certified for 1 hour of general recertification credit toward PHR, SPHR and GPHR recertification through the HR Certification Institute.

We will send out an email to all those who are confirmed as attended with the program ID code to note on your HRCI recertification application form.

The use of this seal is not an endorsement by the HR Certification Institute of the quality of the program. It means that this program has met the HR Certification Institute's criteria to be pre-approved for recertification credit.