

Welcome to the latest edition of the HRS e-newsletter–*The HRedge*.

This edition's contents:

Welcome to new clients... Next free HRS seminar is announced...HIPAA: Renewal of Employee Notices requirement and Wellness Programs now affected...Workplace violence unabated... Think COBRA administration is "No big deal"?...An FMLA question...The internet and harassment...FREE policy sample...Consultant contact list

Contact any of our consultants for clarification of information provided and visit our website for details about HRS at <http://www.hrstndassociates.com/>

HRS has the best clients, and these organizations have recently joined the list...

City of Allentown
CoreBTS
Keystone Foundation Repair, Inc.
La Maison Real Estate, Inc.
Martin's Wood Products, LLC
United Way of Berks County
WorleyParsons
Reading Housing Authority

Another valuable, three-part seminar for all employers

- 1. *Dealing with Challenging Employees***
- 2. *The Justifiable Termination Process***
- 3. *MRC Presents How to get WEDnetPA \$\$\$\$\$***

....oh, we forgot the best part – It's free!

All organizations face the arduous task of having to manage difficult employees. Supervising people is never easy, and some employees make it particularly difficult. It is important to deal with these employees before they get out of hand.

Firing an employee is probably a supervisor's most unpleasant responsibility. Discharging an employee isn't as simple as it once was.

Congress and the courts have greatly expanded employees' rights in recent years, resulting in greater employer liability. Find out how to correctly perform the termination process and save potential liability.

Joining us for this seminar will be our guest speaker, John Nothelfer. He will be talking about WEDnetPA, which offers employers the chance to train employees through the Guaranteed Free Training Program.

We look forward to you joining us for this important seminar.

May 3, 2007 9:00 to 12:00 am

Continental Breakfast served at 9 am

Cabela's

100 Cabela Drive

Hamburg, PA 19526

Register early, seating is limited.

Respond by email to hrguys@hrstndassociates.com

or call Sean or Bob at 610-371-9505 ext. 28 by Wednesday, April 25.

For our valued HIPAA Program Clients

Regulations require that any covered plan sponsor renew its notice to employees and retrain staff at least every three years. As small employers fell under HIPAA in April, 2004, if you wish to renew your contract with HRS, please notify us immediately. Contact [Tom](#)

Wellness Programs now impacted by HIPAA

Late in 2006, three federal agencies [issued final regulations](#) under the Health Insurance Portability and Accountability Act (HIPAA) describing how wellness programs must be designed to meet legal requirements.

The publication of final regulations by the Internal Revenue Service, the U.S. Department of Health and Human Services and the U.S. Department of Labor enables employers to review their wellness arrangements to ensure compliance. In addition, the final regulations open the door to government enforcement of wellness standards, which might come as an unwelcome surprise to employers that designed their programs without considering HIPAA requirements.

HIPAA prohibits discrimination against health plan participants and beneficiaries based on "health status-related factors". These factors include medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability and disability. "Evidence of insurability" includes not only conditions arising from acts of domestic violence, but also participation in hazardous activities such as motorcycling, snowmobiling, all-terrain vehicle riding, horseback riding, skiing and similar activities. Do you have a wellness program for your employees? Contact [Mike K.](#) to find out how this impacts your company.

Recent workplace shootings show need to Plan for Prevention

A man who might have been terminated from his job recently entered the Troy, MI offices of the accounting firm where he worked and shot three people, one fatally. Several recent shootings, including one in Atlanta on April 3 and another in Washington State on April 2, should act as a wake-up call for HR according to security experts. Over and over courts have found employers severely liable for injuries inflicted in episodes of workplace violence.

Don't take a "not in my backyard" position. Violence has taken victims in Allentown and Norristown recently and you need to protect your workplace and understand your liabilities. The most important steps an employer can take is proper training and planning for prevention. HR has conducted workplace violence training since 1994 and can help you. Contact [Tom](#)

Low utilization should not determine COBRA procedures

Employers frequently tell us that they only experience a few qualifying events per year and therefore "it's not that big of a deal." Be assured, COBRA's mandate applies equally across the board regardless of whether you have hundreds of qualifying events or just a few per year. A recent court case illustrates this exact scenario.

In the case of Tufano v. Riegel Transportation, Inc. [2006 WL 335693 (E.D.N.Y., Feb 11, 2006)], Robert Tufano was terminated from Riegel Transportation, accumulated large medical claims and sued for COBRA noncompliance. The court found that Riegel Transportation's COBRA procedures were virtually nonexistent and awarded \$10,233.00 in damages. The following description is being offered as an example of how NOT to administer COBRA.

Riegel Transportation never established who was the Plan Administrator but the Office Manager was responsible for other administrative functions such as payroll, HR, customer service and answering employee questions. Neither the Office Manager nor the firm's President could recall if the COBRA General Notice was provided to employees upon enrollment in the Health plan.

The company did not have written procedures on the handling of office documents but merely relied on oral instructions from the President. The Office Manager received minimal training on COBRA procedures from their insurance broker who provided a Qualifying Event Election Notice for the company to use. The insurance broker advised the Office Manager to send the QE notice within two weeks but the President instructed her to send it within thirty days. (By law, a company has 30 days to notify the Plan Administrator of a qualifying event and they have 14 days to produce and send the QE notice.)

In court, Ms. Salerno testified that she followed these procedures for COBRA qualifying events:

1) Opened a form letter in her computer and inserted the employee's name, address and cost of premiums;

- 2) Prepared two copies, one on letterhead to be sent to the qualified beneficiaries and the other on plain paper;
- 3) Signed the letterhead copy, placed it in an envelope with postage; and
- 4) Placed it in a mailbox outside the office building.

Mr. Tufano was terminated in September 2002. In December of 2002, Mr. Tufano was hospitalized and received authorization from the insurer. Initially, the insurer paid some of the claims but later started denying them because they were informed by the company of his termination from the plan effective September 30, 2002. The company stated they continually notified the insurer of the termination but it was not processed until December. Because of the situation, Tufano sued for COBRA noncompliance.

The company lost in court because:

- 1) The Office Manager testified that she did not specifically recall producing or sending the qualifying event election notice to Mr. Tufano. She also stated she could not recall the "class of postage" (i.e. first class) used for the mailing.
- 2) She also testified that the copy she faxed to Tufano's lawyer may or may not have been the copy of the notice she states "would have been" sent. The court reviewed the "sample" letter and found typographical errors and had no indication it had been mailed. Lastly, she could not recall placing the envelope in the mailbox.

Because of this inability to prove the notice was sent, the court found in favor of Mr. Tufano and awarded \$10,233.00. This is just another example of an employer who did not have standards and procedures for handling COBRA.

Do not leave your COBRA administration to chance -- contact [Sean](#) at HRS.

Q. Is any kind of certification required when an employee requests FMLA leave to adopt a child?

A. The Family and Medical Leave Act (FMLA) does not specifically require an employee to provide certification when asking for leave to adopt a child. However, nothing in the act precludes an employer from requiring an employee to provide some type of certification when requesting FMLA leave for adoption, and many employers do require such certification.

If an employer decides to require certification for adoption leave, it is up to the employer to determine what type of documentation is required. Typically, employers require a birth certificate or adoption papers. Some employers have devised a form to be completed and certified by the placement professional or agency, requiring the placement documentation to be attached.

To unload the burden of FMLA administration in your company contact [Alan](#).

Sooner or later this one had to happen!!!

In a precedent-setting decision the New Jersey Supreme Court ruled in Blakey v. Continental Airlines that e-mail postings by employees on an Internet bulletin board may constitute workplace harassment for which an employer can be liable if it fails to remedy the problem. The decision allowed a worker to proceed with a lawsuit against her employer for sexual harassment based on e-mails authored and posted by fellow employees on an Internet bulletin board. The decision is the first in the United States relative to an employer's potential liability for cyberspace harassment, and has significant implications for all employers using new workplace technologies.

Every employer should have a comprehensive Internet and Electronic Communication Policy. HRS will provide you with a FREE sample policy when you contact [Carol](#) with the request.

To contact us click on the name....

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