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ALABAMA

EMPLOYMENT LAW LETTER

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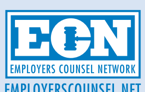

SEX DISCRIMINATION

Pharma sales rep can't push past limits of antidiscrimination law

by Al Vreeland

For years, federal courts have said that employment discrimination laws (such as Title VII of the Civil Rights Act of 1964) weren't meant to address trivial disputes and petty slights in the workplace. There are limits. An employment action must meet a threshold of seriousness before it becomes a violation of federal law.

Still, as discrimination has become more subtle and the application of the laws has expanded, that threshold seems to have lowered, if not disappeared altogether. As we see in the case below from the U.S. 11th Circuit Court of Appeals (whose rulings apply to all Alabama employers), however, not every perceived negative in the workplace warrants a federal case.

It's not me, it's my supervisors (all of them)

Kelley Sutherland, a 34-year-old female with two children, was hired by pharmaceutical company Boehringer as a sales representative in November 2007. Over the course of her employment, she was supervised by several district managers and was continuously unhappy with the treatment and supervision she received from all of them.

In August 2010, Sutherland was promoted to a level two sales representative by her then-supervisor, John Steadman. Around that same time, however, she claims that she was discriminated against, harassed, and denied opportunities for advancement based on her gender and familial responsibilities. She claims that under Steadman's supervision, she wasn't given an opportunity to participate in a training program that could have led to her eligibility for a higher position, was denied materials to learn a second language by two managers, and was issued a poor performance review that affected her salary and commission structure.

In June 2013, Scott Wyman began supervising Sutherland. At some point after Wyman took over, Sutherland informed the company that she had been diagnosed with mitochondrial disorder (a neuromuscular disease that impairs her ability to work), which she claims was caused by her work environment, her supervisors' inappropriate comments, and Boehringer's failure to prevent pervasive harassment against her during her employment.

From October 2013 to April 2014, Sutherland took a short-term disability leave of absence, and she received full pay and benefits during that time. She returned to work for only a couple of days after her six-month leave of absence ended, and she has been on long-term disability ever since.

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Sometimes, the little things don't matter

To invoke the protection of the federal antidiscrimination laws, an employee has to be subject to an "adverse employment action," which is "a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits." Sutherland claimed that she suffered three potential adverse employment actions.

First, Sutherland said that she was denied entry into a training program that could have led to her eligibility for a promotion. Even if she hadn't been eligible for another promotion without completing the certified training program, she didn't show that she actually applied for the training program. Instead, after she received her promotion, Steadman included the training program in her 2011 employee development plan subject to certain conditions, such as "rais[ing] [her] sales, increas[ing] her sales ability and persuasiveness and learn[ing] [her products]." Because she failed to show that she completed the goals Steadman gave her, the court concluded that her lack of training wasn't a sufficient adverse employment action.

Second, Sutherland said that she asked both Steadman and Wyman to grant her access to the company library in order to learn a second language. She didn't explain why this amounted to an adverse employment action other than saying that some of her customers speak Spanish.

Third, she claimed that a negative performance review affected her pay in 2012. But she didn't corroborate her claim that she received a low raise that year and admitted she didn't fully understand her commission structure. Accordingly, neither of these events rose to the level of an adverse employment action and couldn't be a basis for her discrimination claim. *Sutherland v. Boehringer-Ingelheim Pharmaceuticals, Inc.* (11th Cir., 2017).

Testing the limits

Although it seems (and fairly so) that every event in the workplace—however minor—can lead to a lawsuit, there are still limits. As the 11th Circuit noted in this case, to be challenged under antidiscrimination laws, an employment action has to have some significant consequence—even if only in the future. The failure to provide language training or a poor performance evaluation has to affect the employee's compensation or future with the company somehow before it can be the basis of a federal lawsuit.

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HEALTHCARE REFORM

ACA repeal and replace update

by Jamie Brabston

Although Senate GOP leaders failed again in their latest effort to repeal of a large portion of the Affordable Care Act (ACA), Senate Majority Leader Mitch McConnell (R-KY) is intent on keeping pressure on Senate Republicans.

As we discussed last month, the House passed the American Health Care Act (AHCA) on May 4 (see "House passes AHCA, Senate takes up healthcare debate" on pg. 3 of that issue). The Senate's proposed healthcare bill, which was made public on June 22 and was called the Better Care Reconciliation Act (BCRA), didn't have enough votes to pass, and McConnell declared it "unsuccessful" on July 17. An attempt to pass a slimmed-down version of the proposal failed in the early morning hours of July 28.

However, many of the overall healthcare proposals in the AHCA and the BCRA are likely to resurface because Congressional Republicans as a whole haven't changed their opinions about the ACA—nor have they lost their desire to repeal it. So it's useful for you as employers to be familiar with what was in the two healthcare bills that didn't pass. You'll probably be seeing them again someday.

Compare and contrast

The following are some of the similarities and differences between the House and Senate bills.

Essential health benefits. Both the Senate and House bills provided the states with authority to repeal essential health benefits, such as maternal care and mental health care.

Health savings accounts (HSAs) and flexible spending accounts (FSAs). Both bills raised the annual contribution limits for HSAs from their current 2017 levels of $3,400 to $6,650 for single coverage in 2018, and from $6,750 to $13,300 for family coverage in 2018. Both bills also reduced the ACA's tax on distributions that aren't for qualified medical expenses from 20 percent to 10 percent. They also proposed to repeal the ACA's annual limits on an employee's contribution to an FSA and allow FSAs to provide reimbursement for over-the-counter medications.

Slowing down the phaseout of the Medicaid expansion. Senators from states that expanded Medicaid under the ACA don't want to see federal funds dry up as quickly as they would have under the AHCA. Senator Rob Portman (R-Ohio) had proposed a seven-year phaseout in the funding, while McConnell had proposed a three-year phaseout. Any future version of GOP healthcare reform we're likely to see would probably include a phaseout somewhere in the middle of these proposals.

Tax credits may be beefed up. Senator John Thune (R-South Dakota) had been working on a tax credit structure that would have provided more assistance to help pay for insurance for older Americans and low-income earners. The tax credits in the AHCA ranged from $2,000 to $4,000 and were based on age, not income. Those credits would phase out for individuals with an annual income of $75,000 and end completely for those who make $95,000 per year or more. Thune's proposed credits would have cut off eligibility sooner for people with higher incomes and make credits larger, tying them to age and income while giving older people more support.

Employer mandate, "Cadillac," and other ACA taxes. Senate Republicans wagered that if they wanted to spend more on health insurance subsidies and slow down the phaseout of the Medicaid expansion to win over more moderate votes, they had to find a way to pay for these changes to the House bill. Moreover, there has been a general consensus that some ACA taxes will need to stay, at least for the short term. The House bill retroactively repealed almost all of the ACA's taxes but delayed the repeal of the Medicare surtax on high earners until 2023 and delayed the implementation of the "Cadillac tax" until 2026. The Senate bill also included this delay. Ultimately, these changes weren't enough to garner the necessary votes.

One tax that could remain in future versions of a healthcare bill is the net investment income tax, which imposes a 3.8 percent surtax on capital gains, dividends, and interest, sources have said. The taxes most likely to be abolished directly affect consumers and the healthcare industry, including the health insurance tax, the medical device tax, the prescription drug tax, and, yes, the Cadillac tax. Under the AHCA, the penalty for noncompliance with the ACA's employer mandate was reduced to zero, and we're happy to report that any penalties for noncompliance with the "employer mandate" were also reduced to zero in the Senate bill, as were any penalties for noncompliance with the individual mandate.

Try to stabilize the ACA exchanges. Insurers across the country have proposed big rate increases for 2018, and others are leaving the market altogether. Despite the desire of almost all Republicans to repeal the ACA, they also need to make sure the markets remain relatively stable, which may necessitate funding for a few years for the ACA's cost-sharing reduction payments, which reimburse insurers for giving discounts to low-income customers. The House-passed AHCA funded the payments through 2020. The Senate bill would appropriate $50 billion over four years to try to stabilize the ACA's exchanges. Senator Rand Paul (R-Kentucky) has referred to the stabilization funding as a "new entitlement," which he opposes. On the other hand, Senator Ron Johnson (R-Wisconsin) has been the most vocal proponent in favor of ensuring that the insurance markets are stabilized.

Preexisting conditions. Senator Susan Collins (R-Maine) stated recently that the House bill "grossly underfunds" high-risk pools to help people with preexisting conditions and that it would need at least $15 billion in its first year to work.

The AHCA dedicated $15 billion over nine years for states to create their pools, on top of a last-minute amendment that would give $8 billion over five years to a fund to help with premiums and cost-sharing for people with preexisting conditions. Do the math—that works out to about $3.3 billion per year.

There's also a $100 billion pool of money in the House bill to help states stabilize their insurance markets, which can be used to help people with preexisting conditions as well as other purposes, but senators seem to want a dedicated source of funding specifically for the preexisting conditions "pools." Senator John Barrasso (R-Wyoming) pointed out that "[we] need to focus on getting people with pre-existing conditions [covered] while also lowering premiums."

Bottom line

Senate leadership was unable to pass this version of ACA replacement, and a backup plan of passing a full ACA repeal without replacement fell short as well. Still, the GOP's long-standing opposition to the ACA makes it unlikely their efforts at repeal will end here. We'll be sure to update you as this story continues to unfold.

You may contact Jamie Brabston at jbrabston@lehrmiddlebrooks.com. ✤

HARASSMENT

Planning to investigate before the complaint arrives

by JW Furman

What should you do when an employee reports or files an Equal Employment Opportunity Commission (EEOC) charge alleging harassment in the workplace? Even if it's just an internal complaint, such a report has the potential to become the subject of a legal proceeding and should be treated accordingly. So, you take the required "prompt remedial action."

But what does "prompt remedial action" mean? Since it can be interpreted many different ways in different situations, I believe its best definition here is: Have a plan, know the plan, and follow the plan.

Three steps

Have a plan. Have a plan that follows through from receipt of a report through investigation through determination through end action. An employee who knows

or hears of a harassing situation, a supervisor who receives a report, or a clerk who receives an EEOC notice of charge needs to know exactly whom to notify and that it should be done immediately. ("Immediately" is very important to the EEOC and most courts.)

Know who will investigate the allegations so they can begin promptly. Whether they be in-house or not, don't wait until you have a situation to start looking for an investigator. If using an outside investigator is appropriate, your employment attorney will have one on staff or be able to recommend someone. An investigative plan will be created based on the initial information received. Designate who is to receive the investigative report, and have the decision makers meet within a designated time period.

No matter the outcome, meet with the employee who made the allegations. When an alleged victim of harassment feels ignored, an EEOC charge will surely follow. Make sure your plan brings closure to all those involved and that it can be implemented promptly.

Know the plan. Everyone should know his part in the plan, whether it be receiving an initial report, during the investigation, or implementing the determination. The best plans lose effectiveness when those involved are busy learning their parts during their execution. Everyone should know that the plan is to be followed without regard to personal feelings about the report received or people involved.

Follow the plan. Most investigations can take unexpected twists and turns. In my experience, harassment investigations can produce more distractions than most. You certainly need to follow the investigation where it leads, but following a well-thought-out plan will help you make decisions on which appropriate action to take. And having followed that plan, you'll be able to present organized and easily understood evidence to support that action if the need arises.

It's important to note that "prompt remedial action" doesn't necessarily mean that the law has been violated or someone needs to be punished. Promptly determine if unlawful or inappropriate conduct happened. If you find that unlawful harassment or inappropriate conduct has occurred, extreme punishment isn't mandated in all cases. The action taken must be effective and designed to ensure that the harassment doesn't happen again. Some courts have determined that employers complied with this standard even though harassment reoccurred because the reoccurrence couldn't be foreseen. The EEOC usually finds that the action wasn't effective if harassment reoccurs.

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Bottom line

Employee complaints don't arise at convenient times. Waiting until an employee complaint arrives on your desk (usually during some other crisis or time crunch) is too late to plan your response. Take the time now to consider the best course and be ready to respond when it arrives.

You can reach JW Furman at 205-323-9275. ✤

EMPLOYEE BENEFITS

Trump's parental leave plan likely will leave employers footing bill

President Donald Trump's latest budget proposal calls for six weeks' paid leave for new parents. And while the employee wage replacement that comes with the leave would be paid out by states, experts say states will have to draw at least some of the funding from businesses.

The program likely would lead to a significant tax on employers in the form of increased unemployment insurance (UI) taxes, according to Lisa Horn, director of congressional affairs for the Society for Human Resource Management (SHRM).

Who gets leave?

An earlier Trump paid parental leave proposal made during his campaign appeared to exclude fathers, adoptive parents, and same-sex partners. The new proposal contains few details about eligibility, but it does say the leave would be available to new mothers and fathers, including adoptive parents. It goes on, however, to say that it would ensure "all families" can afford to take time to recover from childbirth and bond with a new child without worrying about paying their bills.

The proposal doesn't set out any other eligibility requirements, such as job tenure (like the Family and Medical Leave Act (FMLA) does), full-time employment status, or an income ceiling. It also doesn't say whether the law would include job protection for employees who seek parental leave or whether states would have to provide at

least a certain percentage of income replacement. Those details may be left to Congress (because this plan would require new federal legislation) or individual states.

Several states already have programs with some similar features, but they were created through existing temporary disability insurance programs and were funded by employee payroll taxes. The programs generally offer between 55 percent and 66 percent of an employee's pay, subject to a cap.

And who pays?

According to Trump's proposal, the program would use the UI system as a base, and expenses would be offset by reforms to that system. Those changes include reducing improper payments, helping unemployed workers find jobs more quickly, and—most notably—encouraging states "to maintain reserves in their Unemployment Trust Fund accounts."

The problem with that third item is that according to the U.S. Department of Labor (DOL), many states depleted those trust funds during the recession. By the beginning of 2017, only 21 states had reached the "minimal level of adequate solvency," according to the DOL's *State Unemployment Insurance Trust Fund Solvency Report 2017.*

To resolve that issue, the administration would require states to increase their UI payroll taxes, according to the Committee for a Responsible Federal Budget. And in most states, those taxes are paid solely by employers.

SAFETY FIRST

Recent OSHA interpretation letters explain enforcement

by John Hall

This month we look at several recent interpretation letters in which the Occupational Safety and Health Administration (OSHA) explained how they will enforce their regulations.

Abbreviated hazcom data permissible, but not substitute for MSDS. An employer asked about providing shorter, plain-English information about hazards. OSHA replied, "Your concept of providing abbreviated, plain English Hazcom data would not be a violation of the hazard communication standard (29 C.F.R. § 1910.59). As you acknowledge in your letter, providing such data sheets would not be a substitute for mandated material safety data sheets [MSDS] for those who want them."

Employer, not landlord, responsible for floor loading conditions. In another case, the question was raised about whether a lessor building owner or lessee tenant with employees would be responsible for correcting identified hazards that involved floor loading conditions. It was noted that the employer would be responsible for correcting an identified floor loading condition.

Alarms must be loud enough to be heard. OSHA responded to a question about alarm systems as follows: "With respect to standard 1910.165(b)(2), you requested clarification of the word 'perceived.' It is pointed out that it means that employees shall be able to hear, see, or feel an alarm signal to the extent necessary to understand what it means. If an establishment uses an alarm system that utilizes sound as a means of signaling employees, then the sound must be loud and clear enough to be understood by all employees of the establishment."

Painted yellow lines aren't the only way to mark an aisle. An employer inquired about receiving citations for not having painted markings of permanent aisles and passageways on dirty floors or floors covered with sand or dust. The response by OSHA was that the standard 29 C.F.R. § 1910(b)(2) wording that aisles and passageways be appropriately marked doesn't require marking by painted yellow lines only. This method is the most convenient and inexpensive way to mark aisles and passageways since the lines last several years without maintenance or additional painting. Other methods, such as marking pillars, powder stripping, flags, traffic cones, and other devices, may be considered appropriate as well.

Housekeeping standard requires dry floors. Regarding questions about standard 29 C.F.R. § 1910.22, titled "General Requirements" (which is often referred to as the "housekeeping standard"), OSHA explained that this standard requires clean, orderly, and sanitary conditions. It also requires that floors be kept dry and be provided with proper surfaces appropriate to the circumstances.

John E. Hall is the OSHA consultant for Lehr Middlebrooks Vreeland & Thompson, P.C. Before becoming associated with the firm, he was the OSHA area director and worked for 29 years with the agency in training and compliance programs, investigations, enforcement actions, and setting OSHA priorities. He can be reached at 205-226-7129. ✤

AGENCY ACTION

DOL establishes HIRE Vets Medallion Program. The U.S. Department of Labor (DOL) announced in May the HIRE Vets Medallion Program to recognize employers that recruit, retain, and employ veterans and offer charitable services in support of the veteran community. The DOL is establishing the program under the Honoring Investments in Recruiting and Employing American Military Veterans Act (HIRE Vets Act), which President Donald Trump signed into law on May 5. Criteria for the awards include the percentage of employees who are veterans, the percentage of veteran employees who are retained, the establishment of veterans' assistance and training programs, the employment of dedicated HR professionals for veterans, and income and tuition support for veterans.

Miscimarra takes helm of NLRB. President Trump has designated Philip A. Miscimarra chair of the National Labor Relations Board (NLRB). Miscimarra, a Republican, follows Democrat Mark G. Pearce in the chair role. Miscimarra went on the Board on August 7, 2013. Other current Board members are Pearce, whose term expires on August 27, 2018, and Lauren McFerran, a Democrat whose term expires on December 16, 2019. Two NLRB seats are vacant. Miscimarra's term expires December 16, 2017.

EEOC releases latest equal employment law digest. The latest *Digest of Equal Employment Opportunity Law,* a quarterly publication prepared by the Equal Employment Opportunity Commission's (EEOC) Office of Federal Operations, is available at www.eeoc.gov/federal/digest/vol_2_fy17.cfm. In addition to recent EEOC decisions and federal court cases of interest, the latest edition features a special article titled "Age Discrimination: An Overview of the Law and Recent Commission Decisions." The article discusses the analysis of age discrimination claims and recent case law, including U.S. Supreme Court and EEOC decisions. Among the points in the article is a statement that the Age Discrimination in Employment Act (ADEA) protects individuals at least 40 years old and "forbids discrimination with regard to any aspect of employment."

Agency focusing on dangers of miners working alone. The DOL's Mine Safety and Health Administration (MSHA) has launched an initiative to focus on the hazards miners may encounter when they work in areas away from others. The initiative is in response to the agency's announcement that in the first three months of 2017, five miners died in accidents that occurred when they were working alone on mine property. The initiative calls on MSHA inspectors and training specialists to engage miners and mine operators about the importance of accounting for all workers at all times. ✤

Horn agreed with that assessment. "You can easily get to a scenario where this is going to lead to a significant tax increase on employers."

There are also concerns with intertwining parental leave and UI. "This is a serious departure from the original intent of and purpose of the UI system," whose purpose is to provide wage replacement to involuntarily unemployed workers, Horn said. Claimants must be able, available, and willing to work; with someone taking parental leave, that's not necessarily the case. Adding leave takers to the claimant pool jeopardizes benefits for the unemployed, she said.

Reactions

Trump's plan has received little praise from either side of the aisle. Democrats in Congress say it doesn't go far enough. Republican lawmakers say that while providing assistance to working parents is a "worthy endeavor," they're concerned with the costs and about adding more federal mandates for employers.

The National Partnership for Women & Families, responding to the proposal, voiced support for the Family and Medical Insurance Leave Act instead. That bill that would provide 12 weeks' paid leave for a variety of reasons. Wages would be replaced at 66 percent and would be funded through both employee and employer contributions.

And SHRM has its own proposal: a federal law that would allow employers to opt into a nationwide leave program and in turn receive permission to opt out of state and local requirements. If employers choose to opt into the federal program, SHRM says they would no longer be subject to state and local leave laws and could be exempt from emerging legislative initiatives like predictable scheduling. ✤

WORKPLACE ISSUES

With HR's help, employee network groups can improve retention

From the employer's perspective, employee network groups can boost engagement and retention—or they can create divisiveness. To ensure the former, employers need to be involved from the start.

By adopting a policy and welcoming network groups, businesses can encourage members to have positive effects in the workplace, according to Ray Friedman, a professor of management at Vanderbilt University's Owen Graduate School of Management. Friedman offered tips on policies and best practices during a recent presentation at the 2017 Employers Counsel Network (ECN) Conference in Nashville, Tennessee. David Middlebrooks and Albert Vreeland II, editors of Alabama Employment Law Letter, are members of ECN, a network of lawyers from all 50 states, Washington, D.C., and Canada who write BLR's state employment law newsletters.

One or many groups?

When adopting a network group policy, employers often wonder whether to sanction one all-encompassing "diversity

group" or allow workers to create individual groups based on different identities.

The clear winner, according to Friedman's research, is smaller, individual groups. One of the things that determines a group's success—which he defines as helping employees to feel more comfortable and be more effective at work—is how strongly workers identify with the group. This applies regardless of whether a group is based on gender, religion, or ethnicity, for example. If an individual doesn't strongly identify with the group's identity, neither the employee nor the employer will reap the potential benefits.

Encouraging membership and leadership

Some employers assume that network groups form because employees are dissatisfied at work, and they fear the groups will become confrontational. But that's not what Friedman's research has shown. Membership is driven by social identity and a desire for career enhancement, he determined. Groups provide mentoring and help employees feel included. They improve retention, and employees who participate have better "career optimism."

But for that to happen, an employer must signal that it views participation and leadership in network groups in a positive light. It's especially important to encourage management-level employees to join, Friedman said. Reduced turnover is linked to groups that have management in leadership positions. And "career optimism" is found when employees receive mentoring from group leaders.

Conversely, when a business reacts negatively to a network group, ambitious employees don't join, and the employer's assumptions create a self-fulfilling prophecy. "So a bit of this is under your control," Friedman said.

Benefits for employers

In addition to improved engagement and reduced turnover, network groups have other benefits for employers.

WORKPLACE TRENDS

Fudged time recording blamed for burnout. Many employees underreport the hours they work, a problem that many employers are unaware of and that is to blame for employee burnout, according to a study from Kimble Applications, a provider of professional services automation. In cases in which employees are working more than 40 hours a week, management is aware only about half the time, according to the "Billing and Burnout Report." Whether employees are told to underbill or are afraid of the consequences of working beyond their normal scope, the tactic leads to inaccurate projections for future projects. The study found that 19% of professionals think their management team lowballs the hours a new project will take to win a new client or project.

Study predicts automation will leave retail workers "stranded." A new analysis from investment adviser Cornerstone Capital Group finds that as many as 7.5 million retail jobs likely will be automated out of existence in the coming years, leaving a large portion of the retail workforce at risk of becoming "stranded workers." Retail cashiers are at highest risk for automation, and women hold 73% of those positions, according to the company. Some 16 million Americans are employed in retail, which represents 10% of the nation's working population and generates 6% of U.S. gross domestic product.

Glassdoor identifies most popular jobs for college grads. Jobs website Glassdoor has analyzed thousands of résumés to identify the most common jobs college students hold after graduating as well as which majors are most associated with them. Among the 20 most common jobs identified are sales associate (top majors: business, English, and political science), research assistant (top majors: electrical engineering, computer science and engineering, and mechanical engineering), teaching assistant (top majors: computer science and engineering, electrical engineering, and mechanical engineering), intern (top majors: psychology, finance, and economics), and administrative assistant (top majors: business, psychology, communications).

Survey finds small businesses the happiest places to work. A report from insurer Aflac finds that 84% of small-business employees are happy in their current job and that 48% agree that most, or all, of their happiness in their current job is actually because they work for a small business. The study says the perks many large companies offer are enticing, but working for a small business offers its own advantages that are often more important for career development. Factors such as seeing the fruits of their labor, feeling that their input matters, and being rewarded were all cited by respondents as the best parts of working for a small business. ✤

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8-23 Active Shooter Preparation: Workplace Violence Planning and Training Strategies for When Shots Ring Out

8-24 USCIS Revises Form I-9 (Again): What's Changing, Effective When, and How to Successfully Complete, Retain, and Reverify

8-29 The Intersection of FMLA, ADA, and Workers Compensation: Untangle the Web and Avoid Legal Missteps

8-31 Medical and Recreational Marijuana at Work: Multi-State Updates for Mastering Emerging Compliance Obligations

9-5 Emergency Preparedness: Strategies to Ensure Business Continuity and Worker Safety in the Wake of Disaster

9-6 Paid Sick and Family Leave Hotbed: Multi-State Updates for Mastering Emerging Compliance Obligations ✤

First, they can help a business achieve its affirmative action or diversity goals. It's not enough to hire minorities, Friedman said. The key is moving them up in the organization, and network groups can make that very simple. They allow workers to make high-level contacts and help management identify potential candidates.

Network groups also can serve as a mechanism for management to find out about problems in the workplace. But the company must be ready to respond to any concerns that members raise. According to Friedman, "If they're going to bring up issues, you'd better be able and willing to address them."

Employers also may find that employees in network groups end up with new skills that can be applied at work. Members often develop leadership skills and learn how to run meetings and give presentations.

Adopting a policy

When adopting a policy on employee network groups, an employer has several decisions to make, Friedman said. For example:

- Will you police the types of groups that form? Will you allow religious groups?
- If you do allow religious groups, will you require that they have a business purpose, such as professional development? Will you require that they refrain from proselytizing? If so, how will you monitor that?
- Will you prohibit groups from participating in political, commercial, or religious activities or from opposing any of the other approved groups? And again, how will you police that?
- Will you maintain two separate group categories? (These could be "recognized organizations" that support diversity and receive company funding and "special interest organizations" for social, recreational, religious, or educational issues, which receive no funding.)

And don't be afraid to ask for more information when you receive a network group proposal, Friedman said. For example: Who are they? Why are they forming? What will they do? You may not be able to anticipate every request, but with a solid policy and some follow-up questions, you should be able to set your network groups up for success. ✤

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