

HR Advisor

HR Alerts for February 2007

- > **Federal-only Bilingual Labor Law Poster**
A bilingual version of the Federal Only poster is now available. It is designed to be used with State-only posters in states where Spanish is required to be posted or for employers who have Spanish-speaking employees.
- > **Federal Minimum Wage and Tax Break Bill Passes**
The Senate voted 94-3 to increase in three steps the federal minimum wage rate from \$5.15 to \$7.25. The same bill also provides about \$8 billion worth of tax cuts for small businesses.

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HR Tip of the Month

As a small business, you can be much closer to your staff than managers in larger companies. Use this to your advantage by involving your employees in the workplace culture. Keep them updated on the company's progress and outlook, and on any key developments or decisions. An additional strategy is to schedule a morning each week when employees can come and discuss their ideas or concerns.

Putting Personal Liability Management to Work

The risk of individual personal liability in the workplace has escalated over the recent years. Various federal and state courts have interpreted and issued recent decisions to hold HR decision-makers and communicators personally accountable for their employment actions. Whether you are the business owner, a manager, or the point person for all things Human Resources, ignorance is not bliss when it comes to knowing your legal responsibilities and personal liabilities.



Why are employees increasingly resorting to addressing workplace issues and disputes through litigation? There are a number of reasons employees sue their individual managers. It's often part litigation strategy (e.g., to increase the financial pool for damages) and part the nature of how the employment actions are handled (e.g. no opportunity for employee input).

Regardless of the reason, HR decision-makers need to realize that their employer cannot provide an entirely safe haven. Strategies for minimizing your risk include updating company policies, following pre-arranged decision-making procedures and

documenting your decisions.

Lawsuits consume much time and money as well as cause unproductive disruptions in the workplace. Even if the lawsuit is ultimately denied, it can take years to work through the system and brings a heavy cost in terms of legal fees and lost work. Needless to say, it is a situation no business or corporate decision-maker can afford.

In the end, your best defense is a good offense. The preventative actions you take now can help minimize your likelihood of being caught up in a debilitating and demoralizing lawsuit.

Visit your HR Support Center to read the full article

Q&A with the HR Pro: "Disability insurance for a terminated employee"

Question: What is the law for continuing disability insurance after an employee is terminated? If we want to keep providing this to her because she is out on disability do we keep her as an employee?

Answer: Please refer to your disability insurance plan document. Assuming this is an insured plan

(and not a salary continuation plan provided directly by the employer), the employee will continue to be eligible for disability benefits under the terms of the Plan regardless of whether the worker's employment is terminated. Any disability benefit the employee qualifies for is an entirely separate issue from any leave time she is eligible for from

the employer. Generally, you are free to terminate her employment. She also may continue to receive disability benefits under the terms of that Plan. In addition, be very careful not to base termination decisions on an employee's disability. Doing so would likely violate provisions of the federal Americans with Disabilities Act (ADA).



First HIPAA Privacy Trial Conviction

On January 24, 2007 a Florida medical billing company owner became the first person tried under HIPAA's criminal privacy provisions. The owner was convicted of wrongfully disclosing individually-identifiable health information for personal gain (seven other criminal charges were also included).

Fernando Ferrer, the owner, purchased downloaded information from his cousin, Isis Machado, the front desk office

coordinator. The information involved over 1,000 patients' Medicare numbers and other identifiers at the clinic where she worked. Ferrer then used the obtained information to submit false claims and collected about \$2.5 million paid by Medicare. According to Alexander Acosta, the U.S. Attorney in Miami, Machado testified against Ferrer in a federal district court trial and pleaded guilty to conspiracy charges.

The owner faces up to 10 years of imprisonment and a \$250,000 fine on the HIPAA count as well as maximum terms ranging from two to five years of imprisonment on each of the others, including computer fraud, aggravated identity theft, and conspiring to defraud the federal government. days to process.

This case likely will lead to broader implications for HIPAA privacy enforcement.

Tool of the Month: State & Federal Law Finder

The State & Federal Law Finder is a convenient and easy tool within your HR Support Center. The Law Finder is designed to help you quickly find and understand various employment laws summarized without the "legalese." You can read about information on Federal as well as State compliance issues. Sample topics include:

- Family and Medical Leave Act (FMLA)
- Breaks and Rest Periods
- Termination Procedures

Whether you are already familiar with the requirements for legal compliance in your state, or would like some clarification, the State & Federal Law Finder is a helpful resource at hand.

To find the Federal and State Law Finder, log in to your HR Support Center and click "State and Federal Law."

Did you know?

Last year the Small Business Administration backed over \$12 billion in loans to small businesses.

Source: Small Business Administration

“ Things may comes to those who wait, but only things left by those who hustle. ”

Abraham Lincoln

A look ahead : February

Groundhog Day	Feb 2
Superbowl Sunday	Feb 4
Valentine's Day	Feb 14
Chinese New Year	Feb 18
Presidents' Day	Feb 19
Mardi Gras	Feb 20
Ash Wednesday	Feb 21