



When was the last time your Employee Manual had a Wellness Review?©

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Are you scheduled for an annual physical or dental visit or is your pet scheduled for a wellness checkup or have you made an appointment for your automobile to have maintenance servicing – well, what about your Employee Manual – when was the last time it had a wellness examination (reviewed and updated) in light of new employment laws or internal policies changing? Or perhaps the Practice grew in staff size and crossed a threshold where certain laws now apply; did the Employee Manual have additional policies incorporated? And did the supervisors and managers get briefed on the contents that changed, especially the new material prior to all staff receiving updated Employee Manuals or supplements?

Yes, periodic reviews are necessary to ensure that the Employee Manuals are in compliance with legal requirements, updated for human resources best practices and to remain current with the latest trends to proactively prevent or manage a potential employee liability before it becomes a risk to the Practice. Kudos to you for having an Employee Manual that sets the right tone, clearly communicates information that is relevant and important to employees as well as reflects the Practice’s organizational culture. But, if it has not been thoroughly reviewed every two years and you fail to adapt the Practice’s policies and workplace practices, then the Practice may be subject to costly lessons learned after a problem has occurred.

Reviewing and revising human resources policies and Employee Manuals is critically important because issues associated with the implementation of key employment law regulations are not always clear. Think about the Patient Protection Affordable Care Act, March 2010 (“Healthcare Reform Act”) that is in a state of flux even as it is being administered, it is being challenged.

Long standing laws can be as troublesome as new laws when it comes to informing managers and employees about what can or cannot be done. Many provisions in an Employee Manual describe the terms and conditions of employment mandated by law, such as overtime policies or leave policies. For instance, there is a growing trend of litigation challenging off-the-clock work. There are expected regulation amendments to the Americans with Disabilities Act (“ADA”) to be unveiled in 2011, which may increase the number of employees who might be considered disabled and leave time can be a reasonable accommodation. Consequently, leave

policies advising employees of their rights and outlining procedures will need to be well-documented. You need to ensure that the Practice's policies have had a wellness examination.

The employment arena is continually changing such that emerging trends are affecting the workplace and Employee Manuals need to guide the Practice by having policies that address and reflect these new/changing trends, what is expected as acceptable behavior and what are the consequences for unacceptable behavior. For example, social media/networking regarding delivery/contents of employee communications, hiring procedures that address the use of the Internet used in recruiting candidates or background checks to screen and investigate job applicants – these were not the trends 10 years ago.

Here's an additional list of reasons why you should update the Practice's Employee Manual:

- Protect Employment-at-Will – may be at risk and considered an implied contract if the Employee Manual contains certain promises relating to employment, tenure or benefits. Update the Practice's Employee Manual to include a prominent disclaimer asserting the Employment-at-Will relationship and obtaining a signed receipt for the Employee Manual.
- Electronic Communications – email and internet abuse by employees presents a real liability to the Practice when the Practice's technology is used to transmit such messages. The Employee Manual needs to advise employees that Practice property/equipment/technology is for authorized business use, not personal use and electronic communications is subject to surveillance – no right to privacy.
- Cell phone use - the cell phone (including texting and camera/video) has revolutionized communications along with hindering productivity, being a workplace distraction and potential safety hazard. Cell phone policies in the Employee Manual must address multiple issues in order to provide workplace conduct guidelines to Practice employees.
- Practice equipment use and return – Practice provided equipment are expensive assets and to minimize the liability of accidents or unauthorized use of equipment or information, the Practice needs to define Employee Manual policies to guide the proper use, care and return of the Practice's property.
- Anti-harassment Policies – Employee Manual needs to ensure that the policy has been updated to reflect issues identified in recent court decisions. Careful attention is needed to guide proper on-the-job-behavior, prevent workplace disruption and avoid costly claims.

You've taken great care in drafting and producing an effective Employee Manual. The Practice needs to continue to do the same in reviewing, revising and institutionalizing the Employee Manual policies in the ever changing workplace environment.