

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



Americans with Disabilities Act

- 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



Americans with Disabilities Act

- “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**

Family and Medical Leave Act

- 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 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



COBRA

- 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



EEOC

- 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



EEOC

- 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



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

- 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

- Penalties for noncompliance:

Type of Violation	Penalty
Serious Other-Than-Serious Posting Requirements	\$12,675 per violation
Failure to Abate	\$12,675 per day beyond the abatement date
Willful or Repeated	\$126,749 per violation

Adjusted for inflation as of Jan. 13, 2017



WHD

Wage and Hour Division

www.dol.gov.whd



Wage and Hour Division

- 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

- A
- B
- C
- D
- E
- F
- G
- H
- I
- L
- M
- O
- P
- R
- S
- W



G&A Partners is here to **HELP** with the many challenges you may face in the **WORLD OF LABOR LAW.**



Q&A

#AskMDE



If we didn't get to your question during today's presentation, tweet us ([@GAPartners](https://twitter.com/GAPartners)) using [#AskMDE](https://twitter.com/hashtag/AskMDE), and our experts will reply with an answer shortly!

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

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- 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.



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