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EMPLOYMENT PRACTICES RISK REDUCTION STRATEGIES

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The Virtual Work Environment *Strategies for Success*

It wasn't too long ago that a "virtual work" concept was only likely to exist in the high-tech world somewhere out in Silicon Valley. How times have changed.

Today, 60% of all employees work in different locations from their supervisors, and the U.S. mobile workforce is expected to grow to 73% of the total U.S. workforce by 2011.¹ The prevalence of virtual workers – employees whose primary work location is their home or other non-traditional location – has increased 39% over the last two years.²

CPA firms as well are stepping out of their proverbial brick-and-mortar boxes, incorporating virtual work arrangements as a viable means to help improve their financial metrics and reduce overall costs. In addition, virtual work is quickly becoming a key competitive advantage for employers seeking to add new talent. Its flexibility appeals to the sought-after Millennial (Gen-Y) generation³ of young professionals who are re-shaping the traditional work paradigm with the idea that a work/personal life balance is most important to them – even more than compensation.

A recent Business Week Exchange entry captures, in short, what motivates the young generation: "Gen-Y demands flexibility in their careers. Work/life balance is more than just a pipe dream, and for most it's a reality worth fighting tooth and nail to obtain. The separation between work and life is blurred as Gen-Y seeks flexibility and variation in the workplace."⁴ Thus, for CPA firms, the virtual work option has become an important differentiator.

So, how could a virtual work arrangement benefit your firm? According to a recent Benefits and Talent Survey by Aon Consulting, of those organizations that have implemented a virtual

work program, increased productivity and performance and increased employee engagement ranked as the first and second most important benefits, followed closely by decreased turnover.

Mapping Out a Virtual Work Program for Your Firm

Realizing the benefits and minimizing the hidden costs of virtual work programs requires planning by your firm. In order for it to be successful, CPA firms must understand how to make the most of its benefits and avoid the potential pitfalls.

According to a Talent and Benefits Survey directed by Chad Thompson, Ph.D. at Aon Consulting, a strong virtual work program is based on key elements of preparation, including the selection, management, and engagement of virtual workers, sound HR policies, and communication and change management support. There are some strategies you can adopt as a firm to create an environment that is conducive to virtual work.

Consider Strategies for Success

Here's a checklist your firm can use as a guide for establishing readiness for a successful virtual work program:

- Identify jobs that lend themselves to work virtually, and analyze tasks and responsibilities to determine which jobs are suitable for virtual work.
- Establish policies for the virtual work environment. Create an HR policy that proactively addresses the key issues and concerns of individual virtual workers. Ensure the virtual work policy and business strategy are aligned and implemented to address specific and targeted cost reductions.
- Select employees who can work remotely, determine which employees are a good fit for virtual work, deploying training where necessary.

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How Virtual Work Arrangements Can Benefit Employers

- Increases productivity, performance and employee engagement
- Helps retain and motivate employees
- Reduces people and infrastructure costs
- Keeps business operable during natural disasters, epidemic and other emergencies
- Helps to increase service and international reach capabilities
- Enables geographic dispersion of talent
- Allows closer proximity for customer interface
- Reduces sick leave
- Supports "Green" initiatives
- Adds greater flexibility for clients and employees
- Helps to diversify employee base to staff for multi-national clients

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- Incorporate clear, objective, and measurable criteria in the performance management process. Employ technology and social media to manage performance.
- Ensure that virtual workers are engaged.
- Develop a change management and communication strategy.

Be Aware of Potential Barriers

- Lack of management buy-in
- Absence of clear objectives and communication
- Need for methodology to prove business case
- Subjectivity of productivity metrics and ROI
- Need for effective supervision of remote workers
- Problems with connectivity
- Lack of virtual employee engagement
- Loss of ability to interact with employee/team/work group
- Staff's lack of ability to adapt to change
- Distrust from employers and personal disconnectedness for employees
- Failure to shift to appropriate management style required to manage a virtual workforce
- Legal issues arising from workers' compensation, liabilities and zoning laws
- Inability to provide properly aligned administrative and operational support

Don't Leave Out Risk Control

It's important to remember that no organizational transition is without risk. A virtual work environment creates new exposures and vulnerabilities to critical data risks resulting from the increased geographical diversity of a network and the loss of direct or central control over a virtual employee's physical environment.

An example you may remember is the privacy breach at the U.S. Department of Veterans Affairs that happened as a result of a laptop theft from the home of a worker. The result was described as "potentially the largest loss of Social Security numbers to date."⁵

It's important to keep in mind, protecting your confidential information and your clients' sensitive data is essential and a critical responsibility to consider in the development of a virtual work program.

As CPA firms consider moving to a virtual work solution, human resource leaders can play a key role in helping navigate change, develop people strategies, communicate the vision, and help to ensure that employees' attitudes and aptitudes support this new culture. By overcoming barriers, determining readiness, and adopting clear strategies for success, your firm can be prepared to implement an effective virtual work program and help forge the path for doing business in the future.

[Article Sources]

1. Source: IDC, *Worldwide mobile worker population 2007-2011 forecast*, December 2007.
2. "The Reality of Virtual Work: Is Your Organization Ready?" by Chad Thompson, Ph.D., and Pat Caputo, Ph.D., Senior Consultants at Aon Consulting
3. Millennials (Generation Y) born after 1980 – age 28 and younger 92 million in size, currently 10% of the workforce; within 10 years may be as large as 50%. The population figures represent US Census Bureau estimates of current US residents.
4. <http://bx.businessweek.com/diversity-in-the-millennial-age> Published by Anthony Portuesi on April 2, 2009 in *Gen-Y and Recruiting*
5. Lemos, Robert: *Veterans Affairs warns of massive privacy breach* ([www://www.securityfocus.com/news/11393](http://www.securityfocus.com/news/11393)) *Security Affairs*, Retrieved 3/11/06

This article was based on research findings of Aon Consulting published in "The Reality of Virtual Work: Is Your Organization Ready?" by Chad Thompson and Pat Caputo, Ph.D.

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Developing a Virtual Work Policy for Your Firm

Does your firm have a written policy? You may consider updating your employee manual – only 27% of companies have a written policy.

As your firm considers its policies for a virtual work environment, it's a good idea for HR professionals to gather input from operations, IT, legal, risk management, employee groups, and other business leaders. This will ensure that you are addressing all interests and that you're able to obtain buy-in from key areas of your firm. Here are some considerations for developing a virtual work policy:

- What performance level must the employee achieve to qualify for a virtual work arrangement?
- What specific performance expectations does the employer have for a virtual work arrangement?
- How will the employer evaluate the job performance of the employee who works remotely?
- Will a virtual work arrangement affect compensation or benefits?
- What training and education are necessary for virtual workers, as well as their managers and co-workers, to prepare for a virtual work arrangement?
- How will the employer ensure that nonexempt employees properly record their "hours worked?"
- What safeguards does the employer have against treating exempt employees who work remotely like nonexempt employees?
- How will the employer protect its confidential information and guard against unauthorized access to the home office?
- Did the employer address issues involving its right to access a virtual worker's home computer and equipment?
- Will the virtual-working relationship affect any restrictive covenants with the employee?
- Do the employer's insurance policies contemplate protection of materials and equipment that the employee will use and keep in his or her home? For example, will the employer be covered for any loss caused by a fire to the employee's home?
- Also, does the employer's workers' compensation insurance policy cover work-related illnesses or injuries that occur in a home office?
- How can the employer terminate a virtual work arrangement if desired? It is important to include in any virtual-working policy a statement that a virtual work arrangement does not change or alter the fact that the virtual worker is still an at-will employee.

Help is Just A Telephone Call Away



For immediate legal advice on employment management issues call **1-800-569-3679**. As a CPA EmployerGard policyholder, your firm is entitled to a phone consultation of up to 30 minutes per month with experienced attorneys at the national employment and labor law firm of Ford & Harrison, LLP, at no additional charge. Please have your CPA EmployerGard policy number handy.

Absence Makes a Firm Compliant

Understanding Your Role in Supporting the Family Medical Leave Act

If you have tackled lifestyle issues at your firm lately, you are not alone.

The challenge of balancing workplace demands and the needs of families is a hot topic for CPA firms, as more women (52% of new hires at CPA firms¹) and the Millennials (the largest generation born between 1980 and 2000) emerge in the workforce. The workplace attitudes of a new generation and dual-career families are shaping the firms of the future.

While it's true that creating a flexible work environment and being cognizant of employees' lifestyles can help your firm retain talented individuals and foster their success, managing leave for employees is also an important legal responsibility for employers.

By understanding and complying with the Family Medical Leave Act (FMLA) requirements, you not only comply with the law, but you can also control costs related to leave taken by your employees, minimize the potential disruption to your business, and most importantly, protect your firm from a potential employee-related lawsuit.

The Family Medical Leave Act of 1993, among the first bills signed into law by President Clinton during his first term, is a United States Labor Law allowing an employee to take unpaid leave of up to 12 weeks to handle their own or an immediate family member's serious health condition, without prospect of being terminated by their employers or being forced into a lesser job when they return.

The FMLA's protection includes:

Covered employers must grant an eligible employee up to a total of 12 work weeks of unpaid leave during any 12-month period for one or more of the following reasons:

- birth and care of the newborn child of the employee;
- placement with the employee of a son or daughter for adoption or foster care;
- care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- taking medical leave when the employee is unable to work because of a serious health condition.

The leave distinguished by FMLA is unpaid and is available to those working for employers with 50 or more employees within a 75 mile radius. To be

granted leave under the FMLA, an employee must have worked for a company for at least 12 months. FMLA can be taken on an intermittent basis allowing the employee to work on a less than full-time schedule. With limited exceptions, an employer must return an employee who takes leave under the FMLA to the same position the employee held when the leave began, or, if that position is no longer in existence, to an equivalent position with equal pay, benefits, and other terms and conditions of employment.

Visit <http://www.dol.gov/esa/whd/fmla> to read the FMLA in its entirety and obtain official information and guidelines.

By efficiently managing leave for an employee, your firm can allow for a necessary lifestyle event in a manner that accommodates both your employees' and your firm's best interests, minimizes the potential for gender discrimination, and promotes equal opportunity for your employees — with minimal effect on productivity.

A regional manager for a financial services firm recently needed to exercise his rights under the FMLA to care for his terminally ill mother in her home in a distant state. After spending five weeks of leave at his mother's bedside, the regional manager returned to his job and was able to resume his position, and without delay, regain his footing back at the firm.

Ultimately, the regional manager says, his absence was not reflected negatively in his review and his firm did not suffer in terms of productivity. He attributes much of this to his manager's preparedness and prompt direction around his leave. Because his manager was prepared and responded quickly to his situation, his colleagues were assigned a shared role to cover his responsibilities without compromising his business or client relationships.

Checklist for Employers

To help you prepare for a situation regarding leave under the FMLA, here are some employer imperatives:

1. Familiarize yourself with FMLA federal guidelines, including the new FMLA regulations effective in November 2008, as well as policy and regulations for your state.
2. Post the policy. The FMLA requires employers conspicuously post an approved Department of Labor (DOL) notice summarizing the significant provisions of the FMLA. You can

download a poster from the Department of Labor: <http://www.dol.gov/esa/whd/regs/compliance/posters/fmlaen.pdf>

3. Keep your employees current. Provide them with the information they will need to properly document a leave. Communicate to employees that although leave is unpaid they will need to pay their portion of their benefits the same as if they were not on leave.
4. Train supervisors on policies and procedures. Be sure they are communicating critical information with human resources or firm management.
5. Be prepared. Create contingency plans for your workforce. Be ready to respond quickly.
6. Be sure to capture important information about the leave in writing. Be specific in documenting your communications.
7. Consult with your firm's legal counsel to review items such as Notices of Eligibility and Rights and Responsibilities and Designation Notices to ensure that they are completing them in a manner consistent with FMLA Regulations and your firm's practices and policies.
8. If leave is requested, you must provide the employee written acknowledgement within two business days. Maintain a file for all subsequent communications and documentation regarding the leave.
9. Keep in contact with employees in writing regarding their leave. Document estimated return date(s) and record actual time taken to prevent time being overlooked.
10. Ask for a physician's note that documents the seriousness of the illness or ailment (for employee or his or her family member) leading to missed work.
11. Respond with consistency in evaluating and approving leave for your employees.

If the FMLA protection were not in place, the regional manager believes his situation would have played out in a much more stressful manner, with unpredictable absences and potential failure in meeting his professional obligations. Because he addressed the issue head-on with his manager, she was able to assign other employees to cover his responsibilities while he was on leave. At the same time, the regional manager was able to

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take care of his personal needs and return to work “emotionally together” having spent the time needed with his family, without fear of jeopardizing his career. Without the FMLA alternative, he believes he would have most likely left his job.

Be Prepared – Proactive Measures for Efficiencies in Managing FMLA

In addition to properly implementing the requirements of the FMLA and your specific state guidelines, there are some additional proactive steps you can take to help ensure your employees’ leave goes smoothly. Since a majority of employees (approximately 80%³) requesting leave give no more than 24 hours notice, it is to your benefit to plan ahead so you can respond quickly.

Evaluate and Update Your Company’s Leave of Absence Policies

As part of your overall FMLA review, you should evaluate your firm’s existing leave of absence policies, vacation and sick leave policies, disciplinary policies, and related practices. Make the necessary changes to bring them into compliance with obligations imposed under the FMLA. This could mean such things as spelling out whether accrued paid time, such as vacation, personal days, etc., will be applied to unpaid FMLA leave; that disciplinary action will not be implemented for absence falling in the FMLA category; and choosing a designated FMLA leave period.

Review Your Firm’s Benefits

Be sure to include a thorough analysis of your firm’s benefit plan documents to determine whether the rights provided to your employees under these plans are protected against loss or reduction as a result of a leave of absence taken under the FMLA.

Create a Specific Process to Document FMLA Leave

To ensure that employees receive their 12-week FMLA entitlement, employers should clearly document all employees’ use of FMLA leave. Be sure to include employees who may take a reduced schedule leave.

Check Your Temporary Assignment and Hiring Guidelines

Carefully review your policies and procedures on temporary assignment policies and practices to be sure they are consistent with other employment-related obligations. The intermittent and reduced schedule leave provisions of the FMLA can require employers to temporarily assign existing personnel to fill in for employees who are temporarily on leave or hire temporary employment to assume their job responsibilities.

Understand Your State’s FMLA Legislation

Your state or local law with respect to family or personal leave often requires the employer to provide more generous benefits than those contained in the FMLA, so be sure to understand your specific obligations.

Train Managers Regarding Handling of FMLA Leave Requests

It is important to know that the FMLA imposes individual liability on managers or supervisors who do not comply with the obligations of the law. With that in mind, it is a good idea to develop a plan for the comprehensive training of your management and human resources team regarding their obligations, and ensure human resources oversight to the processing of all leave requests.

On the upside of the regional manager’s scenario, he believes having the FMLA in place enabled him to address his personal problem with transparency and focus, where an alternative scenario may have been less productive. “I was losing my mother, at least I didn’t have to worry about losing my job,” he said. The regional

manager was able to respond to his personal needs and return to work with a sense of focus having been through an unfavorable situation without noticeable disruption or negative impact to his career.

Employers are best served taking a holistic view of FMLA guidelines, federal and state laws, and the firm’s own policies and procedures. Preparing ahead and following these steps carefully can turn what may be considered an unfavorable situation into more of a satisfactory outcome for both your employees and your firm.

For more information, forms, and frequently asked questions about the FMLA, contact the U.S. Office of Personnel Management, which provides government-wide leadership on Federal leave policies and programs:
<http://www.opm.gov/oca/leave/INDEX.asp>

Additionally, for more information, you can contact the legal hotline at Ford & Harrison LLP, a national labor and employment law firm, at (800) 569-3679 or visit www.aontrack.com.

<http://www.bls.gov/opub/mlr/2001/09/art2full.pdf>
- Monthly Labor Review

¹ http://cpatrendlines.com/wp-content/uploads/2008/05/aicpa_supply_and-demand_trends_reports_2008

² <http://hr.cch.com/news/benefits/072408.asp>, from CCH Spencer’s Benefits Reports:

Intermittent Family And Medical Leave Poses Greatest Challenge For Employers

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