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INSIDE

Wolters Kluwer

EMPLOYEE TRAINING

It's critical to train and retrain employees, managers

In the third installment of its year-long examination in the *Life Cycle of an Employee Webinar Series* presented by Polsinelli's Labor and Employment Practice Group, Polsinelli experts shared important insights about why it's absolutely critical that both employees and managers receive training—and retraining—on employer policies and legal requirements that, for example, can either protect against or expose the company to liability, or potentially leave precious proprietary information unguarded. Polsinelli attorneys also offered tips on performance evaluations, promotions, and NLRA considerations.

Employee training is critical. The Polsinelli presenters shared with Wolters Kluwer's Employment Law Daily the most important takeaways from the webinar, *Life Cycle of an Employee—Training and Development*. Moderator Eric Packel, a shareholder in the firm's Kansas City office, talked about the importance of training employees on employer policies—merely showing them the policies is not enough. Scott Gilbert, a shareholder in Polsinelli's Chicago office, echoed that sentiment, stressing that effective training is a critical step in making sure that policies are effective and are helping to reduce potential liability.

Packel also pointed out that in the event of litigation brought against the employer, an employee testifying about the training he received is much more powerful than his mere acknowledgement that he signed a piece of paper indicating he had constructive knowledge of the employer's policies. Employers should make sure that employees know what policies are in place, where to find them, and that they understand them, according to Gilbert. He added that employers should develop protocols for retaining training materials so they can track what training was given and when.

Teeka Harrison, an associate in the firm's Atlanta office, made several additional points about training, which she said comes in many forms—including online, classes, during or after work—each of which has its own risks. She also cautioned employers to ensure that the opportunity for training is promoted equally. Employers should be able to explain why employees are given training and ensure that access to training is equal for all types of workers.

When in doubt, employers should pay their non-exempt employees for training. If training is conducted during work hours, is involuntary or directly related to their job, or productive work is done during the training, non-exempt employees should be compensated, she said.

Don't forget to retrain. As to retraining, Harrison said that employers should be sure to retrain the entire workforce when a policy is revised, especially if the revision is due to a change in the law. She also said that employers should keep a paper trail using signed acknowledgments of retraining. Even where policies have not been revised, Harrison stressed that it's still important to retrain the workforce, especially as to EEO issues, the ADA, exempt versus non-exempt status, and complaint procedures. It's also important to retrain an employee when she changes jobs or is promoted to a managerial role.

Large companies can conduct retraining through computer programs or intranet systems that send mass communications about training and track training progress. Small companies can utilize HR or outside counsel to plan and help implement training.

Managers must know policies and legal requirements. It's also really important that managers understand employer policies because "managers are the company when something occurs," Packel stressed. "Managers are the front line; train them on issue spotting and when to go to HR," Gilbert advised.

Train upon promotion. Chris Mason, a shareholder in the Polsinelli Phoenix office, reiterated that managers need training because they must understand legal requirements. Liability occurs when managers fail to act when they should, or take actions that they shouldn't, he said. A manager who has been promoted from a staff position should be trained on policies and procedures *at the time of the promotion*, Mason stressed. This is probably the first time the promoted employee has supervised others, and she is learning about the concepts of legal job requirements for the first time. Employers do not need to train new managers on every policy, though. They should, however, be trained on requirements for their job, why those requirements are in place, and the significant legal risks that they face, Mason said.

Training should help managers identify scenarios and workplace events that could lead to claims and/or litigation against the employer, Mason added. Employers should train managers on what to do when they get a complaint—how they should act and how they should partner with HR—as well as employee leave requirements and how they should handle and track them. Employers should also ensure that a clear document retention process is in place should a complaint be made by an employee. Managers must understand the need for properly documenting events and retaining records.

Retrain, too. It's also important to retrain current managers, according to Mason. "Forgetfulness is real—people only retain so much," he said. Mason cited studies showing that 40 percent is forgotten within the 24 hours after training; 60 percent is forgotten within 48 hours after training. "Imagine how much is forgotten after nine years of employment without refresher training," he suggested.

Mason added the employers should be sure to train exempt workers/managers on what wage and hour violations look like. He noted that with changes in technology, more non-exempt workers are reachable outside of work hours, and text messages and emails add up.

Follow-up. Harrison encouraged employers to train managers on document retention policies, including the legal requirements for the length of time that documents are required to be maintained, as well as statute of limitation periods. Related policies should be easily accessible to managers. To determine if managers are on track, Harrison suggested that employers build questions into their performance reviews that are open-ended and ask about how they're implementing or upholding workplace policies.

Performance evaluations and promotions. Gilbert stressed that employers need to train managers on what a good employee evaluation is—it's a skill many may not have acquired. Packel underscored the need for honest performance evaluations that include narrative facts. He suggested that the evaluator avoid stating opinions, such as "not a team player." Instead, the evaluator should state facts such as "On [a certain date], Employee A was asked to assist another employee in performing shared duties. Employee A refused, although Employee A was not busy at the time performing any significant job duties." Handling employee evaluations in this manner makes a difference when a complaint arises, Packel said.

Don't forget feedback. Mason urged employers to review promotion criteria at least annually and ensure that this cri-

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Newsletter Design
Publishing Production & Design Services

Newsletter Layout
Laila Gaidulis

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teria is followed during evaluation and promotion processes. Gilbert observed that in the absence of feedback, people assume you don't like them or that they're doing a bad job. "This highlights the importance of providing constructive feedback and reinforces the need to provide feedback after the promotion interview process," he said.

Confidential information. Turning to proprietary information, Gilbert observed that confidential and trade secret information can be a business' life blood. Employers should take steps to protect it by making employees aware of exactly what's confidential. Managers also need to know what steps must be taken to protect this information and to respond to any potential misappropriation.

Packel said that employers should define their trade secrets or confidential information, and limit access to it appropriately. If everyone in the organization has access to the allegedly confidential information, it most likely will not be considered "confidential," he cautioned. Employers should likewise define protocols for protecting confidential information and respond to all violations equally—companies should not selectively enforce violations. If information is truly confidential or a trade secret, the employer should protect it in all instances, he said.

National Labor Relations Act. Gilbert offered a few words of advice as to employee rights under Section 7 of the NLRA, which applies to all employees, not just organized workforces. He noted that the NLRB has recently been flexing its muscles with respect to companies that are not organized. It's important that all managers understand what constitutes concerted, protected activity, and how to properly respond to such activity with an understanding of how the NLRA might come into play, he stressed, noting that a misstep could lead to reinstatement and back pay.

The so-called "quickie election" rules also impact non-organized workforces, Gilbert pointed out, because the rules significantly reduce the time between the filing of a petition for an election and the date on which the election is held. This limits the amount of time the employer has to educate its workforce about unions. As a result, managers need to be trained regardless of whether union activity is suspected to spot the signs of an organizing campaign. And, managers must remember "TIPS—don't Threaten, Interrogate, Promise or Spy"—but be prepared to offer facts, opinions, and experiences that support the company's position.

Webinar series. Polsinelli's webinar, Life Cycle of an Employee - Training and Development, was presented on May 7. The recorded version is available here. The no-charge, five-webinar series is designed to provide not only practical advice but also to highlight how various employment laws come into play at virtually every step of the employment process, Packel explained. ■

Source: *Article taken from "Take it from Polsinelli: Training and retraining employees and managers is critical," by Pamela Wolf, J.D. The article was originally published in the May 7, 2015 edition of Employment Law Daily, a Wolters Kluwer Law & Business publication.*

NLRB

Policies you might think are legal but the NLRB might not

Work rules and employee handbooks are under increasing scrutiny as the NLRB continues its sweeping enforcement effort against rules deemed overbroad and infringing on an employee's Section 7 rights, says a new XpertHR white paper on NLRB policies and handbook provisions. Merely having an unlawful policy "on the books" may be sufficient for the NLRB to find an employer in violation of the National Labor Relations Act—even if the policy is well intentioned or not enforced—especially if it has a "chilling" effect on an employee's protected activity.

In light of the NLRB's March 2015 report, which clarifies recent NLRB decisions on employee handbook rules, XpertHR encourages employers to review their employment policies and handbooks to determine if they are compliant with the NLRB's rules and interpretations. One emerging issue is social media. Now that social media has essentially become today's "watercooler" and a forum for employees to discuss workplace conditions, the NLRB is aggressively enforcing policies that either explicitly prohibit or restrict an employee's right to use social media to comment about the company's business, policies or employees.

For example, employers can prohibit employees from making negative comments about customers on social media. However, they cannot prohibit employees from posting photographs taken of employees on company premises or at company events (*e.g.,* posting a photo of employees carrying a picket sign in front of the workplace or unsafe work conditions).

Another area of concern is policies restricting photography, recording and personal electronic devices. Employees have the right to photograph and make recordings in furtherance of their protected concerted activity, such as photographing safety violations or documenting unfair labor practices committed by the employer. On the other hand, a policy regulating photography and recording will be found lawful if its scope is appropriately limited. For example, an employer may prohibit employees from recording in areas that would violate patient privacy or other sensitive information.

"Employment policies and employee handbooks are a critical and effective way for employers to convey to employees the manner in which they should conduct themselves in the workplace," says Melissa Gonzalez Boyce, Legal Editor, XpertHR. "However, even an employer's well-intentioned rules that prohibit employees from engaging in protected conduct, or that prohibit such activity, are unlawful."

The following are 11 policies employers must review to determine whether they run afoul of the NLRB's recent guidance:

1. Social Media Policy
2. Policies Restricting Photography, Recording and Personal Electronic Devices
3. No Distribution/No Solicitation Policy
4. Confidentiality Policy
5. Employee Conduct Towards Management
6. Employee Conduct Toward Coworkers
7. Policies Regulating Employee Conduct Toward Third Parties
8. Policies Restricting Use of Company Logos, Copyrights and Trademarks
9. Policies Restricting Leaving Work
10. Conflict of Interest Policies
11. Handbook Disclosure Provisions ■

CAREGIVING

How Alzheimer's disease is having a big impact on the workforce

According to the United States Center for Disease Control and Prevention, approximately 5 million Americans live with the medical diagnosis of Alzheimer's disease. Dr. Keith Washington, participating in an interview with Wolters Kluwer Law & Business, explains that the American healthcare system has the expectation that family members provide the primary care for those patients affected with Alzheimer's disease. The majority of caregivers are also members of the workforce.

Supporting caregivers is a choice

When speaking of "caregivers," Washington is referring to friends or relatives who provide aid in completing the daily tasks of the person suffering from Alzheimer's disease. According to the Alzheimer's Association, more than half of these caregivers are also the primary breadwinners of their households with nearly half being employed on a full- or part-time basis.

Employers may find it difficult to manage the added expense of having caregivers in the workforce. According to Washington, "Employees who engage in working full-time and caregiving full-time cost employers 8 percent more in added healthcare costs."

Washington went on to explain that the global cost of care for dementia-related illnesses in 2010 exceeded 600 billion dollars. "This cost included health care premiums for the caregiver, the overall cost of informal caregiving, as well the direct and indirect costs to private and governmental organizations," explained Washington.

Caregiving employees' attendance, or lack thereof, is also an added expense for employers. "Human resource organizations around the world have new challenges regarding the absenteeism of their employees providing care for a relative suffering from Alzheimer's disease," Washington said. "And, there is an increasing number of employees abandoning their careers to provide full- or part-time care. Employers are forced to choose between working amenably with the employee that is a full-time caregiver or severing the career relationship."

Supporting the caregiver. Employers that choose to work amenably with a caregiving employee can show their support by offering financial support in the form of supplemental insurance. This, in conjunction with moral support—i.e., assuring the caregiving employee that not punitive actions will be taken against them—will go a long way towards solidifying the employee's commitment to both their loved one and their job.

Washington says employers can also show their support in the following ways:

- Make caregiving educational programs part of the Employee Assistance Programs;
- Train caregivers to engage in specialized activities to improve the related emotional outcomes;
- Offer to transition employees from full- to part-time work; and
- Implement specific programs to help caregivers manage the emotional, financial, and physical strain of caregiving.

The business of managing caregivers

Proof. When asked whether or not it is fair for caregivers to expect to have to prove their caregiving responsibilities, Washington explained that the requisite "proof" for caregiving leave is much like that for Family and Medical Leave Act (FMLA) leave, saying that "in many cases, employees will need to submit some type of documentation for medical leave or family medical leave to continue employment and or benefits." However, caregiving employees also have the option of using vacation or paid time off time to fulfill their responsibilities.

Policy. "While many organizations recognize caregiver leave as falling under their existing FMLA policy, other organizations will choose to create a separate policy for leave taken to engage in caregiving responsibilities," explained Washington. Each individual organization will need to decide for themselves if a separate caregiving policy will be necessary to manage the absenteeism, benefits, and healthcare costs of a caregiving employee.

"Many organizations recognize that the problem of work-life integration with family-life is one of the top business issues to address in the second decade of the twenty-first century. In fact, the problem of balancing work-life with home-life emerged as a concern for organizational leaders over decades and is complicated by the dual roles of working caregivers," Washington explained. Whether or not to develop a caregiving leave policy separate from the leave policy an organization already has in force will be a decision for each individual organization.

Washington points out that the amount of caregiving leave required to care for an Alzheimer's victim can be vastly different from that needed to care for a relative in the final stages of cancer, for example. "Current laws within the FMLA allow for caregivers to take time off for the care of an immediate relative. However, the caregiving for an Alzheimer's patients can last for many years, and even up to a decade. Not many employers are willing to hold an employment position for that length of time," said Washington. "Recent proposals to expand the current FMLA include language to broaden the definition of immediate family member, implement grants for lost wages, and additional benefits such as tax credits. Any one of these proposals, if passed, would surely impact the policy governing caregiver leave."

Caregiver well-being. Employers should always bear in mind the well-being of a caregiver. "The dual role of full-time caregiver and full-time employee can be exhausting," stressed Washington. "Without question, the dual responsibility of maintaining full-time employment and providing full-time care for a relative suffering from the Alzheimer's disease initially places more of an emotional rather than physical strain on caregivers. However, the emotional strain and the stress of time management with little personal care time and minimal career development opportunities may lead toward feelings of physical strain at work as a result of their over-commitment."

Washington encourages all employers to bear in mind that "Caregivers may frequently feel that their work and personal time is at the point of maximum strain due to the limitations of their ability to perform the dual role of caregiver and employee. The end result is that the breaks or respite moments are more often unavailable. They receive little time for personal care that could alleviate or help cope with emotional and physical strains because when they are away from the patient, they are at work. The burden of maintaining a caregiving lifestyle cannot be overstated." ■

Source: *Dr. Keith Washington is the author of "Caregiving Full-Time and Working Full-Time," ISBN: 9781490856636. The book is available on Amazon, Barnes & Noble and WestBowPress.*

BENEFITS

Employers don't plan on exiting health care game any time soon

Thirty-three percent of employers say they "definitely will" offer health care benefits over the next five years, and an additional 52 percent say they are "very likely" to do so, according to recent research from the International Foundation of Employee Benefit Plans (IFEBP). Less than 5 percent of employers say they are planning to quit offering coverage over the next five years.

The survey, *2015 Employer-Sponsored Health Care: ACA's Impact*, includes responses from 598 human resources and benefits professionals and found that employers are committed to providing benefits to employees to attract future talent, retain current employees, and maintain/increase employee satisfaction and loyalty.

Negative impact. According to IFEBP, three in five employers believe that the Patient Protection and Affordable Care Act (ACA) has had a negative impact on their company. Among those who said their organization's view of the law has changed since enactment in 2010, more than three-quarters said that view has become more negative. Despite these negative feelings, more than half of organizations say they are compliant with the provisions of the ACA and say they are developing multiyear strategies to deal with the ACA's requirements.

Health care costs. Two-thirds of organizations have conducted an analysis to determine how ACA will affect 2015 health care costs, according to the survey. Among all organizations, 82 percent expect the law to increase their organization's health care costs this year. Most organizations are projecting the increase to be between 1 percent and 6 percent.

Implementation of health care cost-containment measures has increased due to the ACA, noted IFEBP. More than one-third of organizations have already increased out-of-pocket limits, in-network deductibles, and/or participants' share of premium costs. In addition, one in five employers have adopted or expanded wellness initiatives because of the ACA, and another 17 percent plan to do so in the next 12 months. ■

Source: *ifebp.org.*

WORK-LIFE BALANCE

Full-time workers say managing work-life is more difficult

EY has released new research showing one third of full-time workers say that managing work-life has become more difficult in the last five years. Younger generations and parents are harder hit than others, plus workers in certain countries. The online survey of close to 9,700 full-time workers at companies of varying sizes in eight countries explored a wide variety of areas including: younger generations moving into management, work-life and economic challenges, workplace flexibility around the globe, plus what employees seek in a job and why they quit. The survey, conducted in the US, Germany, Japan, China, Mexico, Brazil, India and the UK, also includes an analysis of key findings by geography, generation, gender, parental status and managers versus non-managers.

One striking finding, likely compounded by the lack of a US paid parental leave policy, is that 38 percent of millennials said they would "move to another country with better parental leave benefits."

One key area of focus for the survey globally and in the US is millennials. Millennial parents who are full-time employees in the US are facing increased responsibilities at work and home, such as moving into management and having children before age 30. They are increasing their work hours after becoming parents more than older generations and so are their partners/spouses. They are seeing more of a backlash in working flexibly than older generations. One striking finding, likely compounded by the lack of a US paid parental leave policy, is that 38 percent of millennials said they would "move to another country with better parental leave benefits."

"As management shifts to younger generations and more women are in the workforce, we wanted to get a pulse on the challenges employees at different companies face by country, generation and more. We were especially interested in millennials, who are facing a perfect storm of increased responsibilities by moving into management and becoming parents simultaneously," said Karyn Twaronite, who recently took on a new appointment as EY Global Diversity & Inclusiveness Officer. "Knowing that millennials and parents are under increasing pressure, we wanted to understand what employees seek in a job and why they quit, why they stay and how this differs by generation."

Following are the top findings:

1. Managing work-life is getting harder. Among the key findings, the top reason one-third of full-time employees globally say it has gotten more difficult to manage work/family in the last five years is that "my salary has not increased much, but my expenses have," which was about tied with "my responsibilities at work have increased." The other top 5 reasons include increased responsibility at home, working longer hours and having children.

- Full-time employees in Germany and Japan are the most likely to indicate that it has gotten tougher to manage work-life, but about one in four US workers report this, too.
- Illustrating the tension of dual-priorities for younger generations, about half of millennials and Gen X cited increased responsibilities at work as a leading cause, coupled with more than two in five citing increased responsibilities at home.
- Countries where parents found it most difficult to manage work-life versus non-parents were Germany, the UK, India and the US.
- Approximately half (46 percent) of managers, globally, are working more than 40 hour weeks and four in 10 say their hours have increased over the past five years.
- Globally, younger generations are seeing their hours increase more in the last five years at a time when many are moving into management and starting families. (47 percent of millennial managers reported an increase in hours versus 38 percent for Gen X and 28 percent for Boomers.)
- Of managers, full-time working parents (41 percent) have seen their hours increase more in the last five years than non-parents (37 percent).

2. Top reasons to quit: minimal wage growth, lack of advancement, excessive overtime. For companies looking to retain employees as the economy improves — and as more millennials move into management and become parents — EY's global research looked at the leading reasons full-time workers quit. The top five reasons were: minimal wage growth, lack of opportunity to advance, excessive overtime hours, a work environment that does not encourage teamwork and a boss that doesn't allow you to work flexibly.

- Other leading factors in the top 10 were tied to flexibility and included a "flexibility stigma" or perception

that people who work flexibly or take leave will suffer career consequences, lack of workplace flexibility altogether, including an option to telecommute, and too much overnight travel.
- Parents are more likely than non-parents to mention a lack of opportunity to advance as a reason to quit, demonstrating continued career ambition after having children.

3. What do workers around the world want in a job? After competitive pay and benefits, the top five things employees say are very important in a potential job are: "being able to work flexibly and still be on track for promotion" which was tied at 74 percent with "working with colleagues, including my boss, who support my efforts to work flexibly." Other flex perks full-time employees seek are: the ability to work flexibly informally when needed, receiving paid parental leave and not working excessive overtime.

- Millennials, globally, are more likely than other generations to say it is important to receive paid parental leave onsite or subsidized child care and telecommuting 1-2 days a week.
- Interestingly, two-thirds of full-time employees would prefer being able to relocate closer to family over reducing overnight business travel, receiving onsite or subsidized childcare, an ability to shut off emails and calls when needed, and telecommuting.

4. Economy's impact on marriage, work, education and family planning. The economy played a significant role in the challenges full-time workers face and impacted their lives in a wide variety of ways in the last five years.

- More than one in five employees encouraged their spouse or partner to return to work and a quarter encouraged their spouse/partner not to quit or reduce hours to better manage work-life.
- Approximately 23 percent of workers decided not to have more children and one in five delayed having more kids.
- Marriages were also impacted. The economy sparked nearly one in six full time workers to get divorced or separated and almost a sixth to delay getting a divorce.
- About one in five full-time workers were forced to discontinue or delay higher education or said their ability to help pay for their children's education was reduced.

5. US millennials face a perfect storm, moving into management and having children. In the US, our research shows that 25-29 is the most common age to become a manager and have/adopt a child, resulting in more responsibility both at work and home for millennials. Distinguishing US millennials from other generations, many find they are working more hours after having a child and the same is true of their spouse or partner. Millennials are also more likely than other generations to have a spouse working at least full-time and are less likely than other generations to take a career break when they had children.

- More than one in four millennials (26 percent) said they are working more after having a child versus 13 percent for Gen X and 16 percent for Boomers. In addition, the partner/spouse of millennials was also more likely to have increased the amount of time they work.
- While half of women full-time workers in the US of all generations took a career break (50 percent), almost a quarter of men (22 percent) did, too.
- Adding to the demands of managing work-life, parents (including millennial parents) are twice as likely to travel for business as non-parents.

6. US Millennials would leave for better benefits; face more backlash for working flexibly. EY's research found that about one in 10 US workers say they have "suffered a negative consequence as a result of having a flexible work schedule" and the rate is even higher for millennials, or nearly one in six. Perhaps connected to these policies, 38% of millennials would "move to another country with better parental leave benefits."

- Nearly two-thirds of US full-time employees who are parents did not take paid parental leave in the US and over three quarters of women indicate their spouse/partner is not eligible for paid parental leave.
- Millennials (48 percent) who are parents are much more likely to take paid parental leave compared to parents of older generations, when they had children (Gen X 35 percent and Boomers 24 percent).
- Across the board, millennials highly value increased flexibility and paid parental leave and say they would be more likely to recommend that company to others, be more engaged, less likely to quit, more likely to join the company and work longer hours if they were offered.

7. US men and millennials are more likely to make sacrifices to manage work-life. Workers in the US are willing to make job and career changes to better manage work-life integration, and 54 percent of full-time employees have — or would be willing to — given up an opportunity for a promotion. Interestingly, of those surveyed, millennials and men are most likely to make these sacrifices.

- US Millennials are the most likely generation to say they would change jobs or careers, give up an opportunity for a promotion, "move my family to another location to better manage work/family", move closer to family and to "take a pay cut to have flexibility."
- Surprisingly, men are more willing to make sacrifices to better manage work and family than women. Men are more likely to have changed jobs or careers, or said they would be willing to do so, than women. They are also more willing to give up a promotion, "move my family to another location to better manage work/family," move to be closer to family, and take a pay cut. ■

Source: *EY.*

SUBSTANCE ABUSE

Expert talks substance abuse; reminds HR of value of EAPs

According to a 2013 survey by the Substance Abuse and Mental Health Services Administration, 15.4 million U.S. workers admitted to illicit drug use and 44.5 million confessed to engaging in binge drinking. Those substance abusers are someone's employee—most, if not all, of them and their substance abuse habits impact the American workplace via poor job performance, inconsistent work quality, and increased risk of on-the-job accidents.

Learning the signs of alcohol and drug abuse is an essential task for HR personnel, says Will Wesch, director of admissions at Novus Medical Detox. "Many employers are likely unaware of the extent of substance abuse in the workplace, but the evidence can't be ignored. Millions of workers admit to illicit drug use and alcohol abuse, and it's costing organizations billions of dollars each year."

And the problem is only getting bigger, Wesch said in an interview with Wolters Kluwer Law & Business. "We have seen a 12-15% increase over the past few years in business professionals seeking help for alcohol and substance abuse," explained Wesch. "From what we have seen, there are many factors that can contribute to this: work-related stress, stress at home and so on. A large percentage, though, are detoxing from prescription drugs (opioids). These people have been prescribed medications by physicians for injuries or other ailment, but then become unwittingly addicted to what are highly addictive medications."

Warning signs and what to do about them

Different drugs manifest in different symptoms, Wesch explains, so HR should take note of the following:

- Alcohol: Impaired judgment, slowed reflexes, impaired motor function, sleepiness.
- Depressants: Iinattention, slowed reflexes, impaired balance, drowsiness.
- Stimulants: Anxiety, inattention, paranoia.
- Opiates/opioids: Loss of interest, memory problems, severe withdrawal symptoms.
- Cannabis: Impaired memory, poor coordination, distorted sense of time.

If an employee is showing any of these warning signs, Wesch says the best thing to do is to involve the EAP. "An employee assistance program (EAP) will be up-to-date on applicable laws and is prepared to take action."

Wesch explains that the value of an EAP is that it will know the laws and policies of the company and can assist the employee directly. "Roughly one in every 10 persons has an alcohol or drug abuse problem serious enough to interfere with work—and up to 20 percent of a workforce can be affected by personal problems that affect productivity," said Wesch. "EAPs are there to assist the employees, but they also assist employers by helping their most valuable asset: the staff. EAPs help employees with personal issues, drug and alcohol awareness training, and even treatment options." ■

HR QUIZ

Can a company face liability for an employee assistance program?

Q **Issue:** *Your company offers an employee assistance program (EAP) to help employees with personal and work-related problems. Can the company be held legally liable for actions taken by an EAP counselor or outside vendor?*

A **Answer:** By offering an EAP to employees, an employer could potentially face legal liability for actions taken either by internal EAP counselors or by outside EAP vendors. As a result, the employer should make sure that its liability insurance covers actions taken by both internal and external EAP counselors.

Employees who use the EAP should be able to expect that EAP records remain confidential and private.

Liability concerns. Potential employer liability in connection with an EAP might arise under the following types of situations:

- malpractice, such as if an EAP counselor or a medical professional or facility to whom the employee was referred makes a medical mistake;
- misdiagnosis, such as if an EAP counselor directs an employee to a wrong or inappropriate type of treatment;
- negligent referral, such as if an EAP counselor refers an employee to an incompetent or unlicensed health care provider;
- defamation or other harm to an employee's reputation, such as erroneously calling an employee an alcoholic or drug abuser; and
- inappropriate relationships, such as sexual involvement between an EAP counselor and an employee.

HR NOTEBOOK

CPI for all items rises 0.1% as shelter prices rise, energy indexes decline

The Consumer Price Index for All Urban Consumers (CPI-U) increased 0.1 percent in April on a seasonally adjusted basis, the U.S. Bureau of Labor Statistics (BLS) reported May 22. The index for all items less food and energy rose 0.3 percent in April and led to the slight increase in the seasonally adjusted all items index. The index for shelter rose, as did the indexes for medical care, household furnishings and operations, used cars and trucks, and new vehicles. In contrast, the indexes for apparel and airline fares declined in April.

Hourly earnings are unchanged in April

Real average hourly earnings for all employees were unchanged from March to April, seasonally adjusted, the BLS reported May 22. This result stems from a 0.1-percent increase in average hourly earnings being offset by a 0.1-percent increase in the CPI-U. Real average weekly earnings were unchanged over the month due to no change in both real average hourly earnings and the average workweek.

Real average hourly earnings for production and nonsupervisory employees were unchanged from March to April, seasonally adjusted. This result stems from a 0.1-percent increase in average hourly earnings being offset by a 0.1-percent increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

Payroll employment rises by 223,000 in April

Total nonfarm payroll employment increased by 223,000 in April, while the number of unemployed persons (8.5 million) and the unemployment rate (5.4 percent) were essentially unchanged, the BLS reported May 8. Job gains occurred in professional and business services (+62,000), health care (+45,000), construction (+45,000), and transportation and warehousing (+15,000). Mining employment continued to decline (-15,000). Employment in other major industries, including manufacturing, wholesale trade, retail trade, information, financial activities, leisure and hospitality, and government, showed little change over the month.

Fatherly highlights unprecedented perks for working dads

Fatherly, a digital lifestyle guide for men entering parenthood, has released its 50 Best Places to Work for New Dads report, which highlights the best paternity benefits offered by leading companies in the United States. "More companies are waking up to the fact that the role of dad has evolved dramatically since the last generation with a growing demographic of active and engaged millennial fathers making joint decisions about how to raise their children," said Fatherly's co-founder Simon Isaacs. "Today, 59 percent of families with kids have two working parents, and this report reflects how companies are recognizing and adapting to the changing dynamics of traditional parenting roles."

The 2015 report builds upon the work of the Boston College Center for Work and Families, leading experts and other sources, focusing on factors that create a positive workplace for working dads and parents, in addition to direct outreach to companies regarding their specific programs and benefits. The companies chosen for the list were selected based on criteria that make for a strong and healthy workplace for working dads including paternity leave, workplace flexibility, family support programs, company benefits, company culture, job security and business growth. In addition, companies had to have at least 1,000 employees, and companies that did not have at least 1 week of paid paternity leave were not considered for this list.

Some highlights of the report include:

- Facebook leads the pack with 17 weeks of paid paternity leave.
- Patagonia's employees are expected to occasionally skip work to pursue interests such as skiing or surfing.
- Google offers on-site childcare at its headquarters in Mountain View.
- WellStar Health Systems offers an adoption program of up to $20,000.
- MasterCard provides college scholarships to its employee's kids and a support service that offers advice on how to save for, and how to apply to, college.

The full report highlighting each company and its benefits is available here.