

# Management Lifestyles

T&J Associates

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## HIPPA Laws

HIPAA, the Health Insurance Portability & Accountability Act of 1996 (Public Law 104-191 of 8/21/06), amended the Internal Revenue Service Code of 1986.

Title I of HIPAA protects health insurance coverage for workers and their families when they change or lose jobs.

Title I also limits restrictions that a group health plan can place on benefits for **preexisting conditions**, and forbids individual health plans from denying coverage or imposing preexisting condition exclusions on individuals (under certain circumstances).

Title II of HIPAA, the Administrative Simplification (AS) provisions, requires the

establishment of national standards for electronic health care transactions and national identifiers for providers, health insurance plans, and employers.

Most importantly, Title II (AS) also **addresses the security and privacy of health data**. The privacy rule took effect on April 14, 2003, with a one-year extension for certain "small plans." It establishes regulations for the use and disclosure of Protected Health Information (PHI). PHI is **any part of a patient's medical record or payment history**.

The standards are meant to improve the efficiency and effectiveness of the nation's health care system by encouraging the widespread use of

electronic data interchange in the U.S. health care system while at the same time maintaining one's medical privacy.

Title II of HIPAA defines numerous offenses relating to health care and sets civil and criminal penalties for them. It also creates several programs to control fraud and abuse within the health care system.

Ensure your training program includes easy to understand facts about HIPAA.



## NJ Family Leave Act (FLA) and the Family and Medical Leave Act (FMLA)

The 1989 New Jersey Family Leave Act (FLA) requires covered employers to grant eligible employees time off from work in connection with the birth or adoption of a child or the serious illness of a parent, child or spouse.

Employees eligible for FMLA must be employed in New Jersey by a covered employer; must have been employed for at least twelve months for the employer, and must have worked 1,000 base hours in the preceding 12

months. Employers with 50 or more employees are covered by FLA.

As recent as December 24, 2007, a bill to provide New Jersey workers with as many as 10 weeks paid leave has stalled in the Senate smashing hopes

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### Business Tips:

- HIPAA forbids certain preexisting condition exclusions.
- A bill to provide paid FMLA has stalled in the U.S. Senate.
- Disability accommodation requests must be considered.
- Sexual harassment is against the law.
- Respect differences in the workplace.

## Ongoing Employee Orientation

We are aware that new employee orientation improves customer service, reduces turnover and minimizes the learning curve. The same can be said of ongoing employee orientation programs designed to continue your message that human resources are your most prized business possessions.

An effort by companies to continue presenting a cooperative environment in its workplace addresses such topics as major Marketing Plan Changes, new leadership and if/how it will affect current operations, new/amended employment policies that

will play a significant role in employee performance expectations, relocation plans, business acquisitions that offer new employment opportunities, as well as planned layoffs.

As we shared previously, there are always information leaks, and gossip flourishes when workers lack significant information about major company events. It also flourishes when company opportunities are announced to the public before they are first shared with employees.

A consistently delivered orientation



encourages pride, loyalty, and a sense of family among management and co-workers. Check that your programs also disseminate valuable information to current employees before the public at large.

## Americans With Disabilities Act (ADA)

The Americans With Disabilities Act of 1990 (ADA) prohibits discrimination against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.

An individual with a disability is a person who (1) has a physical or mental impairment that substantially limits one or more major life activities; (2) has a record of such an impairment; or (3) is

regarded as having such an impairment.

A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question.

An employer is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the employer's business. Undue hardship is defined as an action

**An employer must meet a request for an accommodation for the known disability of the individual if it is not an "undue hardship."**

requiring significant difficulty or expense for a company in consideration of its size and operations.

Although employers may not ask about an applicant or employee's disability, they may request information

## NJ Family Leave Act (FLA) and the Family and Medical Leave Act (FMLA) (continued from page 1)

that New Jersey may become the third state to let workers take paid leave to care for a sick relative or newborn child.

The federal Family and Medical Leave Act of 1993 entitles eligible employees to take up to 12 weeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons.



The distinction: FMLA provides time off from work due to an employee's disability, while the New Jersey FLA does not. An employee may take NJ FLA intermittently or work a reduced workweek when medically necessary for the employee's or family member's serious health condition (a day at

a time, or a week, or even a few hours).

Federal FMLA and New Jersey FLA offer covered employees up to 12 weeks of unpaid, job-protected leave for certain family and medical related reasons. While both laws provide substantially equivalent coverage, there are some differences.

There is much more to learn and understand. Schedule FLA/FMLA training soon!

# Sexual Harassment Prevention

Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964 and applies to employers with 15 or more employees, including all government levels, employment agencies, and labor organizations.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature is sexual harassment when the conduct clearly or subtly affects one's employment, unreasonably interferes with one's work performance, or creates an intimidating, hos-

tile, or offensive work environment.

There are two kinds of sexual harassment: quid pro quo (abuse of power by a manager or supervisor) and hostile work environment (harassment by co-workers, guest, vendors, or contractors).

New Jersey Law Against Discrimination (NJLAD) embraces federal definitions of sexual harassment but adds: a category of "aiders and abettors" for supervisors, and two classes:



domestic partnership status and affectional or sexual orientation (non-heterosexual tendencies).

The U.S. House of Representatives passed Nov. 7 2007 the Employment Non-Discrimination Act specifically geared toward sexual orientation. It is pending the President's signature.

Sexual harassment is against the law. The key to working effectively in a diverse workplace is respecting differences. Learn how!

# Management Lifestyles—December Highlights

Highlights of vital workplace and campus issues published in the first Management Lifestyles that are T&J services were:

- *The Power of Listening.* Listening is as powerful a means of communication and influence as speaking adequately. It is a tool required by both leaders and followers for an effective two-way communication system.
- *Workplace Whisper Campaigns.* Gossip poisons business. Stressing com-

pany codes of respect and dignity stops bullying, mobbing, and negative e-mail distribution.

- *Resolving Conflicts.* Conflict in the workplace and campus lowers self-esteem and interferes greatly in the operations of a company or institution.

Take the ethics quiz and initiate training to resolve your company conflicts.

- *Ethics & Respect.* Ethical behavior is critical not only because it distinguishes man from beast but also because is a character quality that enables us to co-exist on our planet.

**Learn how to address workplace concerns such as listening, gossip, conflicts, ethics and respect. Visit our web site for available T&J training services as well as current newsletters.**

# ADA (continued from page 2)

from a physician about the individual's ability to perform the essential functions of a job offer or current job in relation to the "known" disability. These questions can be asked in regard to the employer's desire to provide an accommodation that meets the needs of both the individual and employer.

After an offer has been extended, an applicant should advise the employer, "I can perform the essential job functions (EJF) with an accommodation." It is then

the employer's responsibility to determine if the accommodation can be granted and to advise the employee in writing.

When an employee has acquired a disability during employment or has been offered a position or promotion for which an accommodation is needed, the employee should advise the employer immediately and begin discussions to determine what accommodation if any can be granted to satisfy the EJF requirement.

Essential job functions are the basic duties an employee must be able to perform, with or without reasonable accommodation. A company should begin an EJF compendium for each of its positions and share it for open positions.

Failure to begin the interactive accommodation process is a financial risk for companies. Learn how!





## T&J Associates

T&J Associates of New Jersey LLC  
P.O. Box 321  
Oceanville, NJ 08205

Phone: 609-992-8488  
Fax: 609-748-0936  
Email: tjassociates@verizon.net

We're on the web!  
[http://  
tjassociates.homestead.com](http://tjassociates.homestead.com)

T&J is a limited liability company, T&J Associates of New Jersey LLC, providing employment consulting and training services in the areas of business and campus human relations since 1986.

Our first concern is making a meaningful contribution to companies and institutions by bringing new ideas and options to help promote positive inter-relationships. Our focus is working with the client to find the best and most cost-effective solutions that contribute to improved performance in critical human resource areas.

Some workplace or campus issues are isolated or periodic and do not require the daily services of on-site staff. That's where T&J is an asset. This newsletter is a promotional piece to inform the reader of issues you may need to address. Your human resource issues and dilemmas can become our challenges. Throw down the gauntlet and lets begin!

*Helping new managers get started and  
experienced managers get better!*

## Resources for Business Relationships

Topics discussed in this newsletter are only a few workplace and campus issues addressed by T&J Associates.

Outsource behavioral training needs and allow your training department to concentration on daily company needs such as orientation, job performance, and company policies. You will at the same time, reduce risk and penalties associated with violation of federal and state workplace laws.

Training resources can be effected through specifically designed in-person presentations, online resources, or e-learning.

White papers are available, such as the one pictured in this article, to provide general information for interested parties or to serve as resources for research or school papers. Also, papers on various topics have been found beneficial for managers who

need to address isolated incidents on a one-to-one basis with a guideline to refresh their knowledge and/or a handout for individuals to remind them of discussions held.

Online resources currently available are white papers on *Affirmative Action Facts & Myths*, *The Power of Listening: Tips & Techniques*, *Workplace & Campus Civility*, and *Organizational Climate Survey Made Easy* (pending).

Coming soon are training manuals and E-learning on such topics as *Conflict Resolution (Intermediate)*, *Diversity & The Workplace*, *Ethics & Respect*, and *Workplace Civility*.

Visit the T&J web site periodically to discover current resources available and programs created for your special needs. Programs can be purchased via PayPal.

