

PEO INSID

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PROFESSIONAL EMPLOYER ORGANIZATIONS*

24  NATIONAL
PEO WEEK
MAY 19-25 2024

THIS MONTH'S FOCUS

LEGAL AND REGULATORY ENVIRONMENT

FEDERAL AGENCY
GUIDANCE

WORKFORCE
CHALLENGES

COMPLIANCE
PITFALLS

COVER STORY

MEET CONGRESSWOMAN BETH VAN DUYNE

Rep. Beth Van Duyne (R-TX)

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MAY 2024

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Meet Congresswoman
Beth Van Duyne

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PrismHR LIVE

Features Casey Clark and Paul Ryan

NAPEO's new president and CEO Casey Clark and Paul Ryan, the 54th Speaker of the House, will headline the PrismHR LIVE event this year in Nashville, June 2-5.

Attendees will get to hear Casey's vision for the future of the PEO industry. Paul Ryan will discuss the current direction of labor and the economy, as well as the power of evidence-based public policies.

You won't want to miss it!



Casey Clark
NAPEO President and CEO
LIVE 2024 Keynote Speaker

See why hundreds of people from the PEO industry love to attend PrismHR LIVE, the industry's premier tech event. Discover the next generation of technology, explore fresh approaches to business and client growth and make connections with your peers and PrismHR Marketplace partners.

Register today to hear from fantastic speakers and to check out the latest innovations coming your way. We'll see you in Music City!



Paul Ryan
54th Speaker of the House
LIVE 2024 Keynote Speaker



Registration is open for PrismHR LIVE 2024!
Scan the QR code to register by May 17 to avoid late rates.



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THE IMPORTANCE OF GRASSROOTS AND NATIONAL PEO WEEK

BY STEVE POLITIS, ESQ.

As we usher in the month of May, anticipation mounts within our community for one of the most significant events on our calendar: NAPEO's PEO Capitol Summit. As Chair, I am honored to provide a sneak peek into this pivotal gathering and underscore its importance in protecting and shaping the future of our great industry.

At the heart of the current PEO Capitol Summit lies the essence of advocacy: grassroots efforts and lobbying endeavors that amplify our collective voice and influence policy decisions. It is a reminder of the vital role we play in educating lawmakers about who we are, what we do for SMBs and the profound impact we have on their constituents.

Some recent successes just in the first few months of 2024 like our monumental win in Oregon and the strides made during advocacy days in New York and Georgia, underscore the potency of our outreach efforts. Let's not forget our friends Erica Brune and Bill Maness testifying in Kansas. How about last year's triumph in New Mexico? All of these and so many other instances, serve as a testament to the power of strategic collaboration and our unwavering commitment to the mission.

Crucially important, PEO Capitol Summit serves as a proactive measure to

cultivate relationships before our need arises. It is a lot easier to meet with legislators when you are not asking for anything. Our mission transcends mere advocacy; it is about continuous education and empowerment, particularly in light of the turnover among elected officials. By fostering enduring connections and championing our industry's cause, we lay the groundwork for sustained progress and resilience.

In an interconnected world where legislative decisions in one state reverberate across borders, our collective engagement takes on heightened significance. We are the stakeholders who directly impact their constituents, and it is incumbent upon us to ensure that our perspectives are heard and heeded. As the famous saying goes, "All politics is local."

Central to our advocacy efforts is the NAPEO PAC, a cornerstone of our government affairs program. By promoting PEO-friendly candidates, nurturing relationships, and safeguarding our industry's interests, the PAC epitomizes our commitment to effective advocacy without taking a political side. The PAC is neither left nor right, it's centered on the interests of our industry and most importantly our SMB clients, their employees and stakeholders.

I know it may seem scary to meet with legislators, but nothing is further from

the truth. With our NAPEO government affairs team and lobbyists there to guide us all along the way, it is a piece of cake. The significance of direct engagement with our local legislators cannot be overstated. As PEOs, we serve as lifelines for SMBs in their districts, empowering them to thrive and compete in an increasingly dynamic marketplace.

I would be remiss if I didn't mention the longtime foundation of PEO Capitol Summit (formerly Legal & Legislative), the educational, speaker and networking pieces of the conference. The agenda is full of opportunities for learning, dialogue and action. Industry experts will delve into hot topics, offering practical insights to inform decision-making and daily operations. Moreover, attendees will have the chance to pose questions and glean "free" wisdom from leading lawyers and compliance folks.

Let me close by saying, let's not forget our second annual National PEO Week. What a great success last year was. I cannot wait to see what proclamations we will get this year.

See you all in DC! ■



STEVE POLITIS, ESQ.

2023-2024 NAPEO Chair
CEO
Alcott HR

REST IN PEACE

IN MEMORIAM: NYLEN LEE ALLPHIN, JR.

Longtime industry member and NAPEO stalwart Nylene Lee Allphin, Jr. passed away on March 29. Lee was an active and engaged NAPEO member, serving as the Heartlands Leadership Council Chair for many years and a member of the NAPEO Board and Executive Committee. He was instrumental in our efforts to pass the PEO registration bill in Missouri. Melissa Kelly of ADP then worked as NAPEO's state government affairs director, she remembers Lee's efforts in the fight to pass the Missouri bill.

"I had the privilege of working closely with Lee to pass the Missouri PEO statute during my tenure at NAPEO. His passion for the PEO industry, his knowledge and his expertise were critical to success. We encountered many challenges – varying opinions within the industry on how to (or if) we should continue, as well as work by opponents in Jefferson City to undermine the effort. Lee's leadership carried us, and the bill was enacted in 2018," Kelly says.

Like so many PEO operators, Lee's career didn't begin with dreams of running a PEO. Lee held chemistry and chemical engineering degrees from Brigham Young University, a doctorate in organic chemistry from the University of Colorado and an MBA from UC Berkeley. He spent many years working in the chemical engineering field. Lee then found himself as a principal owner of a chemical plant in Joplin, MO. Soon thereafter he found out he was responsible for much of the HR and administrative tasks necessary to support his 70 or so employees. This experience would lead to him thinking of how he could help small businesses with HR needs and tasks. He connected with T. Joe Willey and Rex Eley, both industry pioneers in

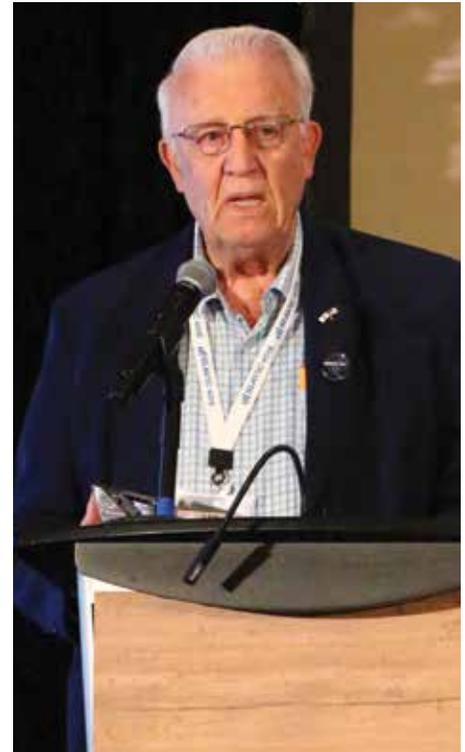
their own rights. Lee formally entered the PEO industry in 1989 when he founded Employer Advantage in Joplin, MO.

Over the next three decades, Lee built a successful business that served clients across several states. He sold his business to G&A Partners in 2022, but remained involved within the company and the PEO industry. John Allen, CEO of G&A Partners, remembers Lee as a kind and caring man.

"I first met Lee as he was rolling off the NAPEO board and I was rolling on. We were both BYU Alumni and they had just upset Oklahoma at AT&T Stadium in Dallas. That gave us plenty to talk about," Allen says, "Lee had a great passion for the PEO industry and an incredible desire to serve and help others. He also willingly shared his success with others, contributing to a number of worthy causes in southwestern Missouri. He was a great storyteller, and he was delighted to draw upon his years of experience to mentor a fellow competitor. We were honored that he chose G&A Partners to continue the legacy of the PEO that he built."

Melissa Kelly echoes those sentiments. "On a personal level, Lee's kindness, faith and humble nature also taught me a great deal," she says, "A few years ago, Lee put me on a distribution list, and I received emails he sent around holidays. The excerpt below is from Thanksgiving 2021:

"I have come to realize that we can choose to be grateful, no matter what. It is a choice. This type of gratitude transcends anything happening around us. It surpasses disappointment, discouragement, and despair. It blooms just as beautifully in the icy landscape of winter as



Lee Allphin receiving the 2018 Michaeline A. Doyle Award

it does in the pleasant warmth of summer... Being grateful in times of distress does not mean that we are pleased with our circumstances. It does mean that through the eyes of faith we look beyond our present-day challenges. This is not a gratitude of the lips but of the soul. It is a gratitude that heals the heart and expands the mind." –Lee Allphin

"Like so many others, I will always be grateful to have worked with and learned from Lee, and most importantly, to call him a friend," Kelly continues.

Indeed, Lee was always willing to help others and share his time to help better the industry. He joined NAPEO from the get-go and always took an active role. Thanks to Lee, the PEO regulatory environment in Missouri is more stable and better for PEOs. Many in the PEO industry counted Lee as a mentor and friend. He cared deeply about others, especially his beloved family. Lee received the 2018 Michaeline A. Doyle Award, the industry's highest honor, in recognition of his selfless service, generous spirit and leadership.

KUDOS

MANAGEDPAY RECEIVES TOP HR SERVICES PROVIDER AWARD

NAPEO member ManagedPAY recently announced that it has been recognized by HR Tech Outlook as a top HR services provider for the third consecutive year. “At the outset, ManagedPAY distinguishes itself with a meticulous approach to client engagement. By delving into the intricacies of each client’s challenges—be it managing the nuances of onboarding, streamlining offboarding, or enhancing performance evaluations—the firm ensures that its strategies are effective and perfectly tailored to its clients’ requirements,” writes HR Tech Outlook in an article announcing the award.

LEADERSHIP

SPIRIT HR HIRES CHIEF REVENUE OFFICER

NAPEO member Spirit HR recently announced the appointment of Adam Graham as its chief revenue officer. As chief revenue officer, Graham will be responsible for developing and executing Spirit HR’s strategic growth plans, overseeing the company’s expansion and growth throughout the nation.



C-SUITE

CLAY KELLEY JOINS STRATUS HR AS CHIEF REVENUE OFFICER

NAPEO member Stratus HR recently announced the hiring of industry sales expert Clay Kelley as the company’s Chief Revenue Officer. “For over three years now, Clay has been a ‘fractional’ Chief Revenue Officer for Stratus HR. I’m thrilled that he has now dropped the ‘fractional’ piece of that title. Having him on board full-time as our Chief Revenue Officer creates a strategic position for Stratus HR to achieve unparalleled new heights,” said John Farnsworth, CEO of Stratus HR, in a news release announcing the hiring.



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WELL-DESERVED

MIKE MILLER'S
LASTING LEGACY

"Mike is an industry icon, who literally built the industry in Florida, built the regulatory scheme around it that allowed it to grow. He is known and beloved for taking or returning calls from clients, and some non-clients, at all hours. At the same time, and to Mike, more importantly, he has been a leader in the fight against pediatric cancer. He's a great lawyer, a great friend, and a great human being." —Pat Cleary, Chief Growth Officer, Vensure Employer Services

"As Mike's friend and prior law partner, I could not have been blessed with a better mentor. Over the years, I have been with Mike as we worked through a litany of challenges to our industry. In those battles, I have marveled at Mike's amazing recollection of the history of our industry and of the laws that he has written. That knowledge and his wisdom have made him a formidable force fighting for PEOs as General Counsel for FAPEO and on behalf of his clients. I cannot write about Mike though without mentioning his other passions, his family, and fighting children's cancer. With a caring and altruistic soul, Mike has made a genuine difference in the battle to defeat children's cancer while being a great patriarch for his family. Although there will never be another Mike Miller, he has made those who have worked with him better for the experience and he has taught us all to be better human beings. I am grateful that I have been able to work with this man for whom I have so much love and respect." —Torben Madson, Esq., Partner, The PEO Law Firm, LLC.

"Mike has been a pioneer, advocate, and friend of the PEO industry literally since the beginning. There is no question the industry would not be what it is today without Mike. He also is a dear friend and has been a mentor to me personally, for which I will be eternally grateful." —John Polson, Chairman & Managing Partner, Fisher Phillips.

CONGRATULATIONS

THANK YOU, MIKE MILLER

BY NICK KAPIOTIS

With Mike Miller officially stepping down from his long-tenured role as general counsel of FAPEO, we thought it would be appropriate to take a moment to recognize Mike's outsized impact on our industry. As we discussed my role in the recognition, Chris Chaney, editor extraordinaire, thought I could give a brief introduction on Mike's background and history within our space.

As I thought about this, I realized that most folks already know these details—about things like Mike's drafting of some of the earliest PEO frameworks and principles upon which we still rely today, his passion for seeking a cure for pediatric cancer, especially through CureSearch, and how he has saved our industry from disaster many, many times through grit, determination and, most of all, relentless phone calls. If you don't know, then you can't find a better summary than from his biography at <https://www.fisherphillips.com/en/people/michael-r-miller.html>.

Instead, I decided to write about the Mike I know: the selfless individual who—through actions, not words—has made me not just be a better PEO practitioner, or a better attorney, but more impactfully, a better person, starting from the first time I met him.

Very early on in my PEO career, I was lucky enough to receive a copy of the famous "Mike Miller Letter," which at the time was around 200 pages of case law and correspondence collated by Mike to explain the concept of co-employment (the

letter has now grown to well over 300 pages). I spent many hours reading through the examples to help foster my understanding of the PEO paradigm. Certainly, in my eyes, Mike was a larger-than-life figure from the beginning.

I finally had a chance to meet Mike for the first time at a FAPEO event in Tallahassee, and, much to my surprise, he was gracious enough to give me a few minutes of his time to talk about co-employment. Here was Mike Miller—the preeminent expert on all things PEO—and he took the time to have a genuine conversation with an absolute nobody in the space. And then we talked some more. And then some more. And then it was time to sit down for dinner and surely Mike would take his appointed seat at the head of the table. No! Instead, he invited me to sit with him at dinner (somewhere in the middle of the table), where our conversation continued.

All told, Mike must have spoken with me for over three hours—that just does not happen in a Type A, ego-driven industry like the legal practice. But with Mike it does. And no legal expert is going to share their hard-earned experience time and time again without sending you a bill. But Mike does. No one can persist against legislators and regulators who refuse to pick up the phone until they are finally heard without discouragement. Mike persists. No attorney would have his work attacked by both friends and foes without punching back. But Mike just smiles and continues his work. Because it's great work. And Mike's a great person. And for that, Mike, and so much more we say thank you.

FEDERAL AFFAIRS

NAPEO STEPS UP ENGAGEMENT WITH MEMBERS OF CONGRESS

So far this year, NAPEO has participated in more than 40 meetings with Congressional offices. Building and strengthening relationships with policy-makers is critical to advancing the



NAPEO President & CEO Casey Clark and Bill Maness, CEO of Syndeo, attend a fundraiser for Rep. Ron Estes (center) (R-KS) as part of the Chairman Series led by House Ways & Means Committee Chairman Jason Smith (R-MO)

industry's interests. These meetings present an opportunity to further educate lawmakers on the important work that PEOs do to support hundreds of thousands small and medium-size businesses.



NAPEO President & CEO Casey Clark attends a fundraiser in California with Rep. Beth Van Duyne (center) (R-TX) with his wife, Liz

In an election year like this one, not much legislating will get done unfortunately, however, we can still use this time to increase engagement, raise our visibility on Capitol Hill, and cultivate more allies. ■

EVERY SUPERHERO NEEDS A SIDEKICK

Capes may not be part of your work attire, but we know how hard you fight for your clients. With more than 20 years of experience working with PEOs, we provide solutions that will make you look like a superhero.

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Federal Agency Guidance



THE PUMP ACT: PROTECTIONS AND CONSIDERATIONS FOR PEOS

BY BRIAN L. MCDERMOTT, ESQ. AND MEGAN A. VAN PELT, ESQ

The Providing Urgent Maternal Protections for Nursing Mothers Act (“PUMP Act”) expands legal rights and protections of exempt and non-exempt, nursing employees under the Fair Labor Standards Act (“FLSA”). The PUMP Act went into effect on December 29, 2022, and additional enforcement remedies took effect on April 28, 2023. Certain states and municipalities have laws related to expressing milk, but the PUMP Act provides federal protections on a nationwide basis. The United States Department of Labor (“DOL”) Wage and Hour Division recently published Fact Sheet #73: FLSA Protections for Employees to Pump Breast Milk at Work¹ to provide information to employers on the PUMP Act’s protections for nursing employees.



WHO IS COVERED?

Employers covered by the FLSA must comply with the PUMP Act, and the law's protections apply to both exempt and nonexempt employees with certain exceptions for employees of airlines, railroads, and motor coach carriers. Employers with fewer than 50 employees could be exempt from the PUMP Act if they can show undue hardship. The exemption does not apply to employers with 50 or more employees. The PUMP Act also includes anti-retaliation provisions.

REQUIREMENTS: BREAK TIME AND PRIVATE SPACE

For up to one year after the birth of an employee's child, employers must provide reasonable break time and a private space, other than a bathroom, each time a nursing employee needs to express breast milk for a nursing child. Break times for pumping may be unpaid unless otherwise required by federal, state, or local law. If an employee is not completely relieved for their job duties when pumping or pumps during an otherwise paid break, the employee should be paid.

An employer may not deny a covered employee needed break time to pump, and the frequency and duration of employee breaks under the PUMP Act can vary depending on

individual employee needs. The private space provided by employers for employees to express milk must be functional for expressing breast milk. The space cannot be a bathroom and must be shielded from view and free from intrusion by co-workers and the public.

PRACTICAL ADVICE FOR PEOS

Apart from the Fact Sheet, the DOL is publishing industry-specific guidance and recently published guidance related to the retail and restaurant industries through a webinar², associated presentation slides³, and frequently asked questions (FAQ) publication⁴. The DOL also published guidance related to the education industry, transportation industry, care worker industry, agricultural industry, and general industry. PEOs and their clients may reference the guidance to equip themselves with resources and information specific to industries they support.

PEOs and their clients may review and update any break, compensation, and reasonable accommodation policies, as needed. Unless otherwise required by federal, state, or local law, break time spent pumping can be unpaid. Even so, if an employee is not completely relieved from duty while pumping, the employee must be paid. For example, if an



For up to one year after the birth of an employee's child, employers must provide reasonable break time and a private space, other than a bathroom, each time a nursing employee needs to express breast milk for a nursing child.

employee pumps during a requisite safety meeting where staff is discussing on the job safety goals, the employee must be paid for the time spent working. Also, if an employer provides paid breaks, an employee who pumps during such break must be compensated in the same way as other employees on breaks.

The Occupational Safety and Health Administration (“OSHA”) says “exposure to reproductive hazards in the workplace is an increasing health concern.” Given potential workplace hazards in certain employment settings, PEOs and their clients should tactfully consider the safety of the private space offered to pumping employees. Employers can temporarily convert an existing space, other than a bathroom, into a private space for pumping, but the location must be “functional” for pumping.

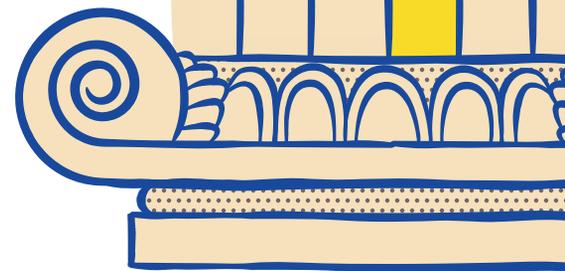
PEOs and their clients may wish to train human resources professionals, management, supervisors, and other leaders on the PUMP Act, as well as policies and practices with respect to the law. Leaders should be able to recognize requests related to pumping and be equipped to swiftly manage them. These training

measures may promote awareness and effective handling of pumping requests.

PEOs and their clients may consider creating a process (similar to an Americans with Disabilities Act (“ADA”) process) for employees to follow when requesting to pump or other pregnancy-related accommodations under the Pregnant Workers’ Fairness Act (“PWFA”). According to the Equal Employment Opportunity’s (“EEOC”) proposed regulations⁵, lactation (including breastfeeding and pumping) will generally be considered under the PWFA.

PEOs and their clients may want to review state and local wage and hour requirements and update their DOL poster⁶ to include the PUMP Act. ■

- 1 DOL fact sheet
<https://www.dol.gov/agencies/whd/fact-sheets/73-flsa-break-time-nursing-mothers>.
- 2 DOL webinar
<https://www.youtube.com/watch?v=CTTxJwcKA0>
- 3 DOL presentation
<https://www.dol.gov/sites/dolgov/files/WHd/flsa/PUMP-retail-restaurant-presentation.pdf>
- 4 FAQ document
<https://www.dol.gov/sites/dolgov/files/whd/flsa/pump-retail-restaurant-faq.pdf>
- 5 EEOC proposed regulations
<https://public-inspection.federalregister.gov/2023-17041.pdf>
- 6 DOL poster
<https://www.dol.gov/sites/dolgov/files/whd/legacy/files/minwagep.pdf>



▼ This article is designed to give general and timely information about the subjects covered. It is not intended as legal advice or assistance with individual problems. Readers should consult competent counsel of their own choosing about how the matters relate to their own affairs.



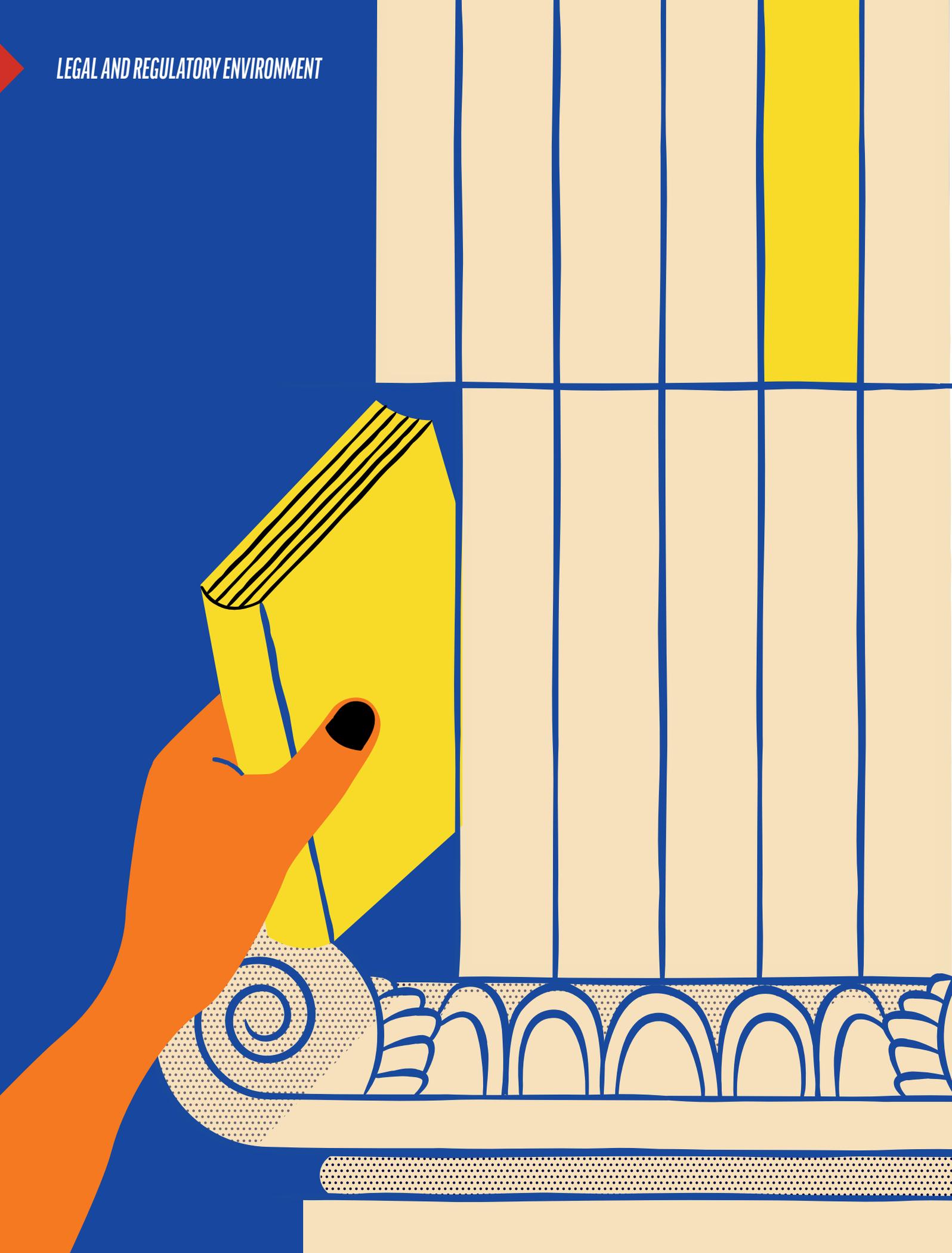
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WORKPLACE BATTLE BREWING: PEOS NEED TO PREPARE FOR SEASON OF CHANGE AND UNCERTAINTY

BY JOHN POLSON, ESQ.



Two competing forces battling it out right now could have an outsized impact on your clients' workplaces and your overall business practices over the next few months – so you should make sure you have a basic understanding of what's going on so you can adjust and advise as necessary. Government agencies are trying harder than ever to reshape the way alternative workplace models conduct their business, while some sympathetic courts are siding with businesses and pushing back on these efforts. Depending on how the battle ends, the next few months could bring a sea change in how joint employment and independent contractor laws are applied to workplaces across the country – or see the highest court in the country create chaos by yanking power from federal agencies in a truly transformational way. Here's an

overview of what's going on and what you can expect over the next few months.

AGENCIES UNLEASH BROAD, PROGRESSIVE RULES

A pair of new federal rules threaten to upend some fairly common business practices and wreak havoc on businesses from coast to coast.

JOINT EMPLOYER RULE

A joint employer rule from the National Labor Relations Board aims to establish a very liberal standard that would result in a finding of "joint employment" between two entities much more frequently. A business would have been considered a joint employer not only when it has the right to exert control over the terms and conditions of another company's employees, but also when evidence exists of

reserved, unexercised, or indirect control over any working conditions.

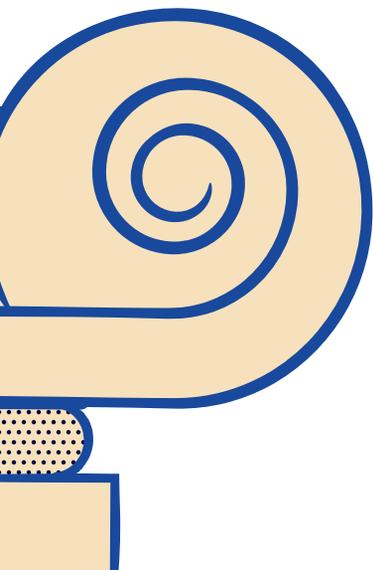
This would include obvious situations like hiring and firing – but also such other conditions as wages, benefits, scheduling, supervising, directing, and disciplining. This raises many questions for PEOs regarding the way they describe their relationship with customers and employees. The new rule also could embolden the NLRB to take a more aggressive stance with PEOs.

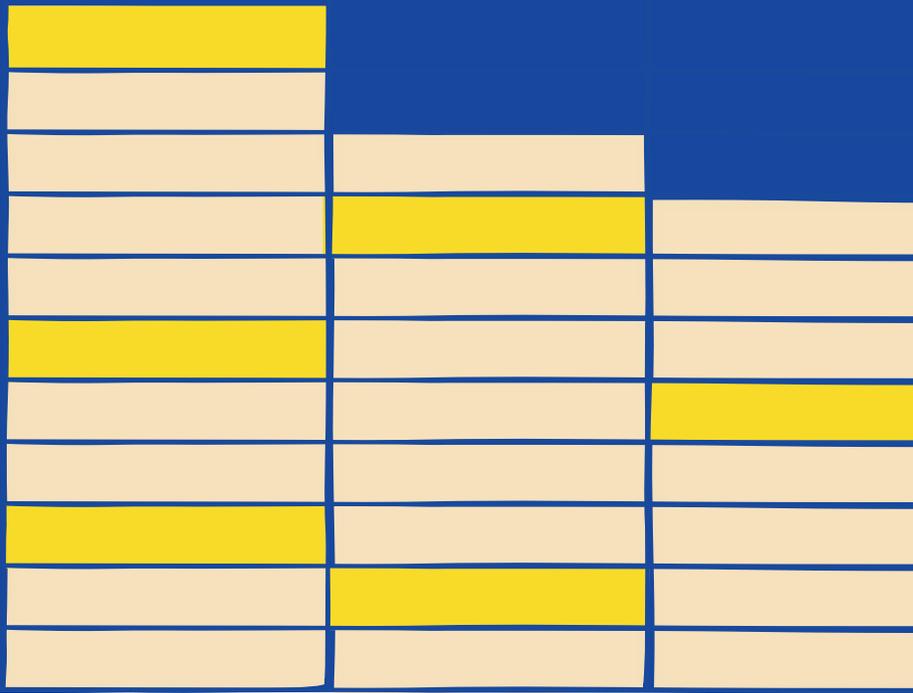
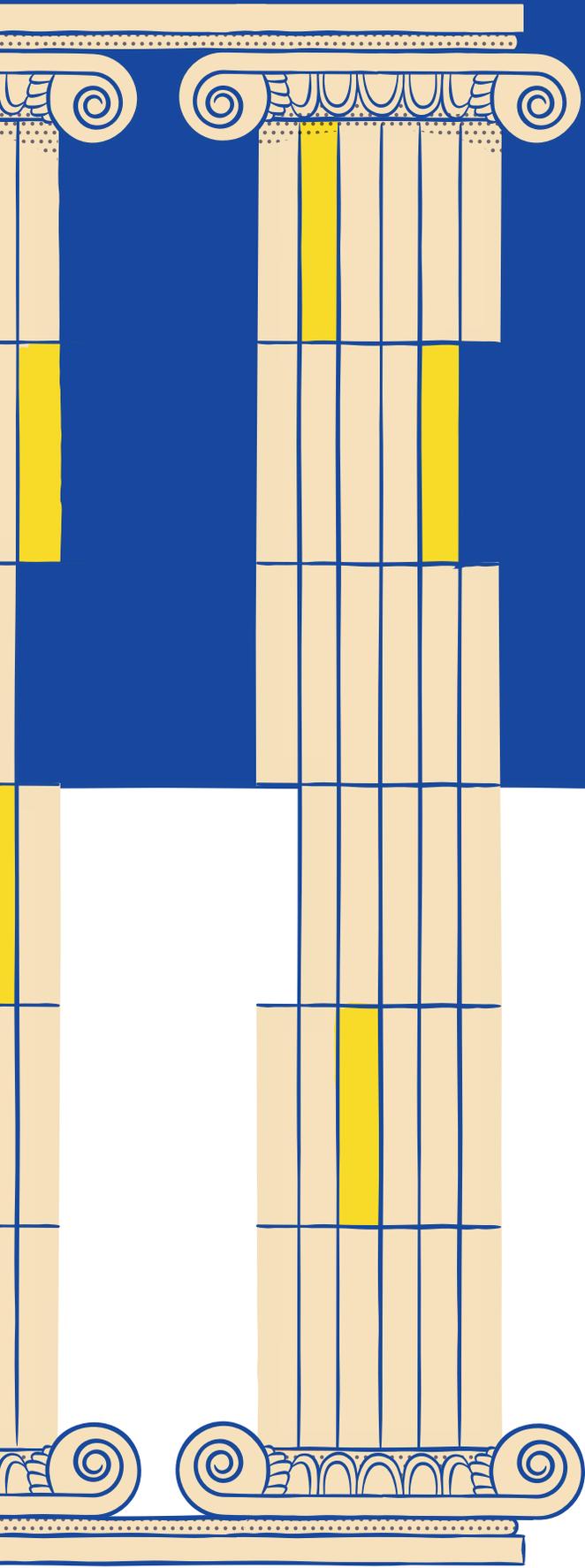
INDEPENDENT CONTRACTOR RULE

Meanwhile, businesses will find it harder to classify workers as independent contractors under federal wage and hour law thanks to a Department of Labor rule. A new rule will usher in more complex analysis that focuses on the "totality of the circumstances" to determine whether



A pair of new federal rules threaten to upend some fairly common business practices and wreak havoc on businesses from coast to coast.





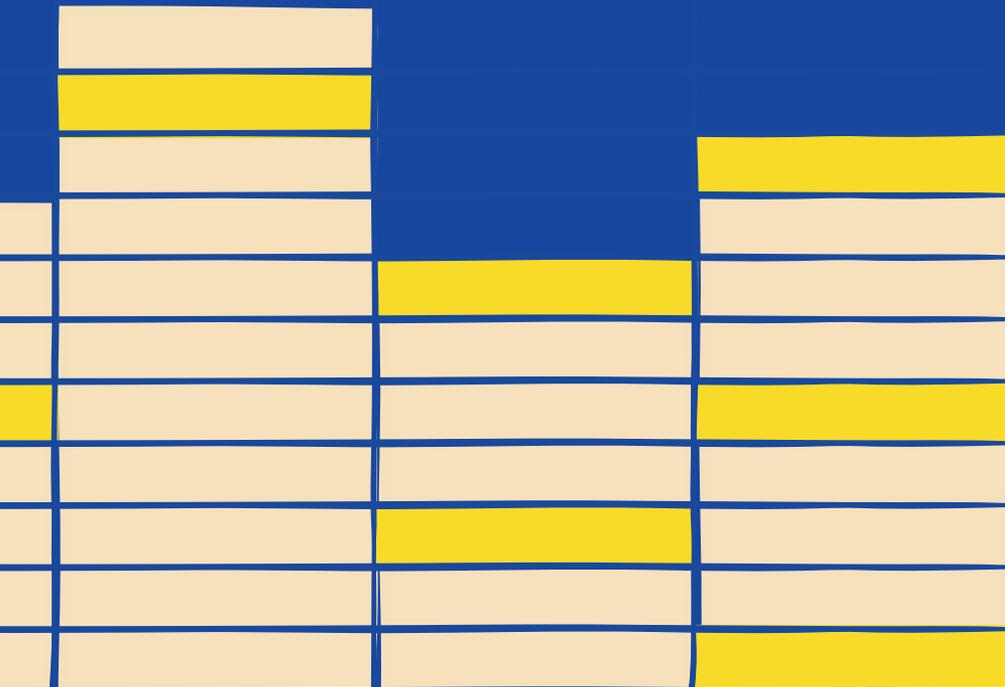
a worker is an employee or independent contractor – and also use an employee-friendly interpretation of how each of the factors in the test should be applied. In a nutshell, it will be more difficult for businesses to classify workers as contractors.

This is not necessarily bad for PEOs. A broader definition of employee will lead to the classification of more workers as employees who will be part of the PEO’s business model. On the other hand, it could lead to more disputes about whether an injury suffered by a customer’s independent contractor should be covered by the PEO’s workers’ compensation insurance program.

COURTS STRIKE BACK

But thanks to legal challenges brought by business advocacy groups, these rules face an uncertain future. In fact, the joint employment rule is currently on hold after a Texas federal court struck it down right before the effective date. Court battles over the future of that rule are just beginning, however, and we expect an appeals court to eventually weigh in.

Meanwhile, although the independent contractor rule took effect on March 11, we are monitoring pending litigation that could put that rule on ice or at least block the Department of Labor from enforcing it. Don’t be surprised to see a court ruling in the coming weeks that puts another dent in the armor of federal agencies when it comes to their attempts to step further into the workplace.



Many observers believe the U.S. Supreme Court will issue a ruling by the end of this term that will strike down or at least seriously degrade this Chevron doctrine and thereby remove a lot of power from federal agencies.

COULD THE U.S. SUPREME COURT END MUCH OF THIS DRAMA?

But all of those court battles could just be the prologue to a major shakeup that could be on the horizon. By the end of June, the U.S. Supreme Court will decide an under-the-radar case (*Loper Bright Enterprises v. Raimondo*) that could completely reshape the way that federal agencies operate.

A legal principle that has been in place for decades (called the “Chevron doctrine”) says that courts need to give federal agencies wide latitude to take a position and pass regulations when a statute could reasonably be read with two different interpretations. This standard has led agencies to pass all sorts of rules that govern almost every aspect of your day-to-day workplace life – from wage and hour law to labor rules, from safety standards to pay equity, and on and on. And there’s little doubt that the joint

employment and independent contractor rules also fall under this same structure.

Many observers believe the U.S. Supreme Court will issue a ruling by the end of this term that will strike down or at least seriously degrade this Chevron doctrine and thereby remove a lot of power from federal agencies. This could cause you to have to be nimble and adjust to a shift in the way that government authorities apply joint employment and independent contractor rules to all sorts of business models.

TWO SIDES TO THE COIN

While you may be thinking that the ability of courts to easily strike down regulations issued by an overreaching agency is a good thing, there is, however, a dark side to this story. PEOs may enjoy the protection or enablement of regulations that favor the industry, but those regulations are equally vulnerable to

court challenges. We may see organized labor and other pro-employee groups go on the offense by attacking longstanding regulations that are good for PEOs and other employers.

Keep an eye on this quickly evolving situation. The PEO business model is built on legal doctrine, not bricks and mortar or chips and processors. As such, a dynamic and unpredictable regulatory environment presents a greater risk to PEOs than other businesses. ■



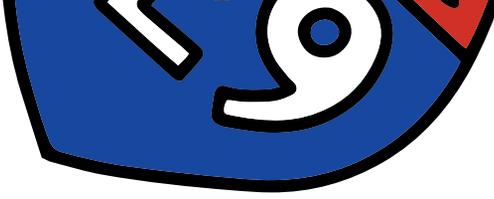
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Managing Compliance With a Hybrid Workforce



BY GORDON MIDDLETON, J.D.

In recent years employers have been left to deal with an unprecedented business environment. There are currently more hybrid and remote employees than ever, yet the implications of employee migration across state lines are not well understood by many employers. Employers need to have detailed plans in place as to how they will implement new compliance policies and requirements quickly throughout their organization. As part of this overall process, employers need to ensure they know where employees are working and ensure they can afford them the right tools, processes, and workflows to complete all necessary business tasks.

As employers consider how to adopt new requirements, numerous factors should be top of mind. These processes cover the entirety of the employee lifecycle, from onboarding through end of employment responsibilities. Items of note include federal and state onboarding notices, tax withholding forms, employment eligibility (Form I-9), and more. Ongoing responsibilities include distribution of forms W-2, earned income tax credit notices, observing pay statement requirements, and presenting required labor law postings. Items to be provided

to separated employees include benefits notices, unemployment and providing continued access to needed employee data, such as that needed to secure loans.

In most instances, the law in the state where the work is done applies, but many employers are ill-prepared to monitor new laws and regulations or changes to existing law in all locations they have employees. There are currently over 175 state and federal agencies that issue notifications and postings and tracking changes can be extremely difficult, as there is no one specific one-stop resource. These agencies enacted over 150 updates to notices and forms in the past 12 months alone, and many of these posters and notifications must be presented in multiple languages and have specific timing attached.

When employers discover the scope of complying across all jurisdictions they do business in, many inquire about the risks of non-compliance. What happens if they don't comply? Factors to be considered include: government audits where penalties can be extensive and often expand with evidence of non-compliance; the possibility of employee lawsuits which can be both lengthy and extremely costly; employer reputation concerns which in the case of public companies there can be

effects on corporate officers and stock prices, and; establishing your organization as a good faith operator which can help limit the scope of any audits and possibly eliminate fines in some instances of violations.

As the scope of risks expands with employee movement across state lines, good faith employers often take a top-down approach and seek to focus on compliance processes that have the highest initial risk or visibility. While these challenges can be cyclical, employers can rely on three evergreen items to always lead the pack: 1) Form I-9 completion, 2) meeting state level form requirements, and 3) managing tax withholding, especially for hybrid or remote employees.

FORM I-9

The I-9 process is one that has vexed employers since the form's introduction in 1986. While the current version of the





form includes the main page, containing sections 1 and 2, it has been broken out to include Supplements A and B, as well as the documents list, bringing the total to a tidy four pages. The form itself does not appear that daunting, but there are over nine hundred pages of accompanying guidance, and that level of required knowledge is a big burden for those who may not have this as a core part of their overall job responsibilities. Couple that with an average error rate over 50% and an average fine of \$2,000 per form and there is great room for concern.

The good news on the I-9 front is that the latest version has separated some more confusing sections that were included in prior versions into their own supplements. In addition, a new remote process is now available for use by employers who are E-Verify users in good standing. This is a major gift for employers who may struggle with meeting timelines that surround I-9 completion. (Section 1 must be completed on or before the first day of work for pay, and Section 2 must be completed within 3 days of the first day of work for pay).

STATE-BY-STATE CHALLENGES

Meeting state-level compliance requirements as employees shift location is another major challenge for employers, as it has the possibility of introducing entirely new and unfamiliar processes, depending on the state(s) involved. Some states have a veritable smorgasbord of new hire forms, such as California and New York, while others have minimal requirements outside of federal law.

Prevalent items that are becoming more widespread across multiple states include wage theft notifications, paid sick and family leave notifications, and labor law notifications. Compliance-minded employers need to be aware of any changes in notifications and postings and develop processes to ensure timely delivery. These laws and notices are still



In most instances, the law in the state where the work is done applies, but many employers are ill-prepared to monitor new laws and regulations or changes to existing law in all locations they have employees.

applicable to remote employees, as they invariably include statements of employee rights in specific situations as well as contact information.

Managing remote employee tax withholding has grown in visibility since 2020, when commuters ceased their commutes prompting states to look for ways to keep tax revenue stable. As with labor and employment laws, taxes must typically be paid in the state where work is performed, with exceptions. Items of note employers need to be acutely aware of include: 1) temporary presence laws, which dictate how long an employee may work in a state before being required to withhold taxes, 2) reciprocity agreements are in place in 16 states which allow employers to withhold based on the employee's state of residence, as opposed to where the work is done, and 3) local taxes, which can be extremely difficult to track.

Many employers see the scope of these compliance tasks and wonder how they can stay abreast of all developments. There are many ways to make a good faith effort to comply and follow all applicable rules. Organizations with small compliance budgets to track such issues may want to sign up for missives from large law firms which can be free and do not require any sort of obligation other than providing an email. These can be narrowed by specific topics or industries and are often very helpful in providing information regarding new or

upcoming laws or processes. Along with that comes the need to be able to ascertain what requirements are applicable and how to implement them into existing processes or create new ones.

Those with moderate budgets may wish to purchase subscriptions to search engines that ensure they are aware of all new laws and regulations. This method requires a certain amount of knowledge of the legislative process and still retains the need to understand how to implement new laws and regulations or add to existing.

Lastly, those with higher budgets can engage full-service vendors to handle the entirety of these processes on their behalf. Those opting for this method should ensure they do their due diligence prior to purchasing or they may find they have just found a much more expensive way to achieve a non-compliant outcome.

Employers are rewarded for good faith efforts to comply, and the potential liabilities involved are not worth the risk of non-compliance. ■

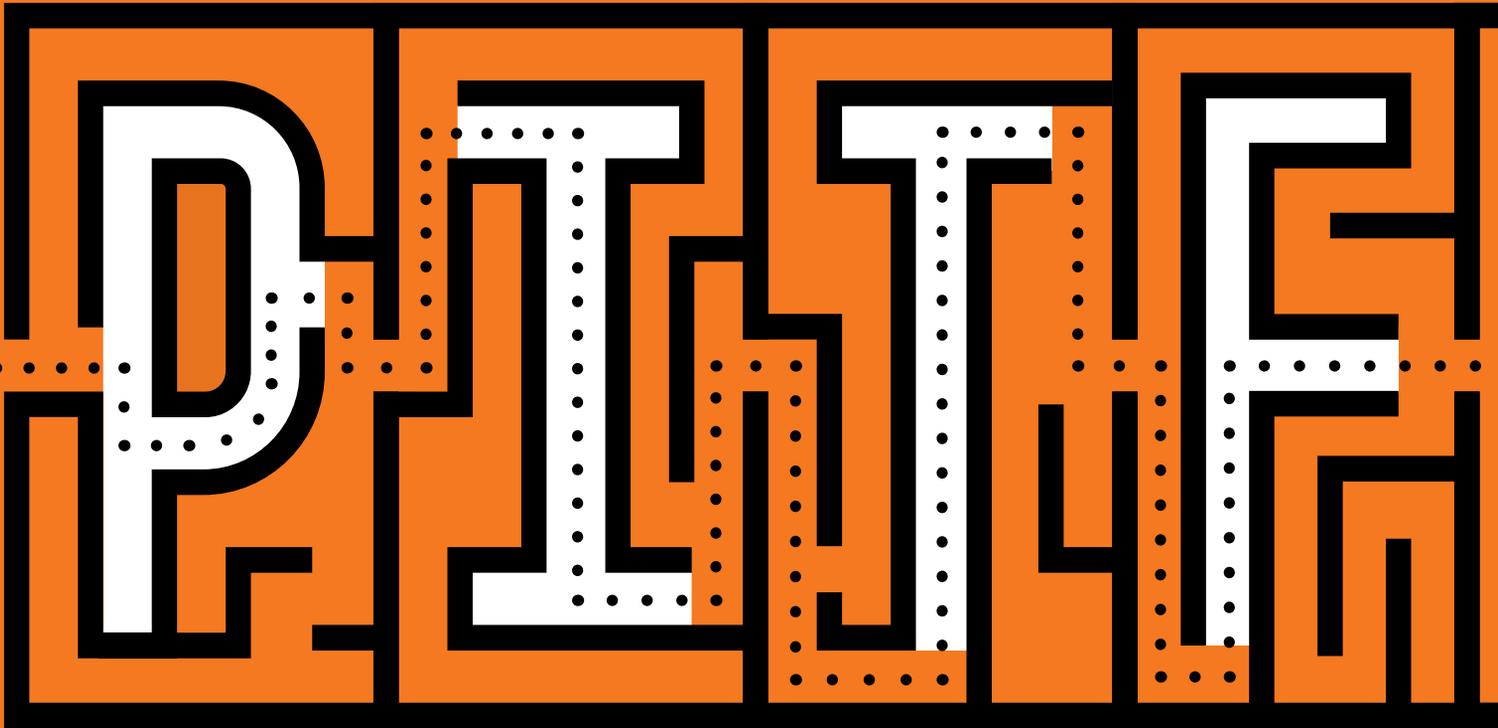
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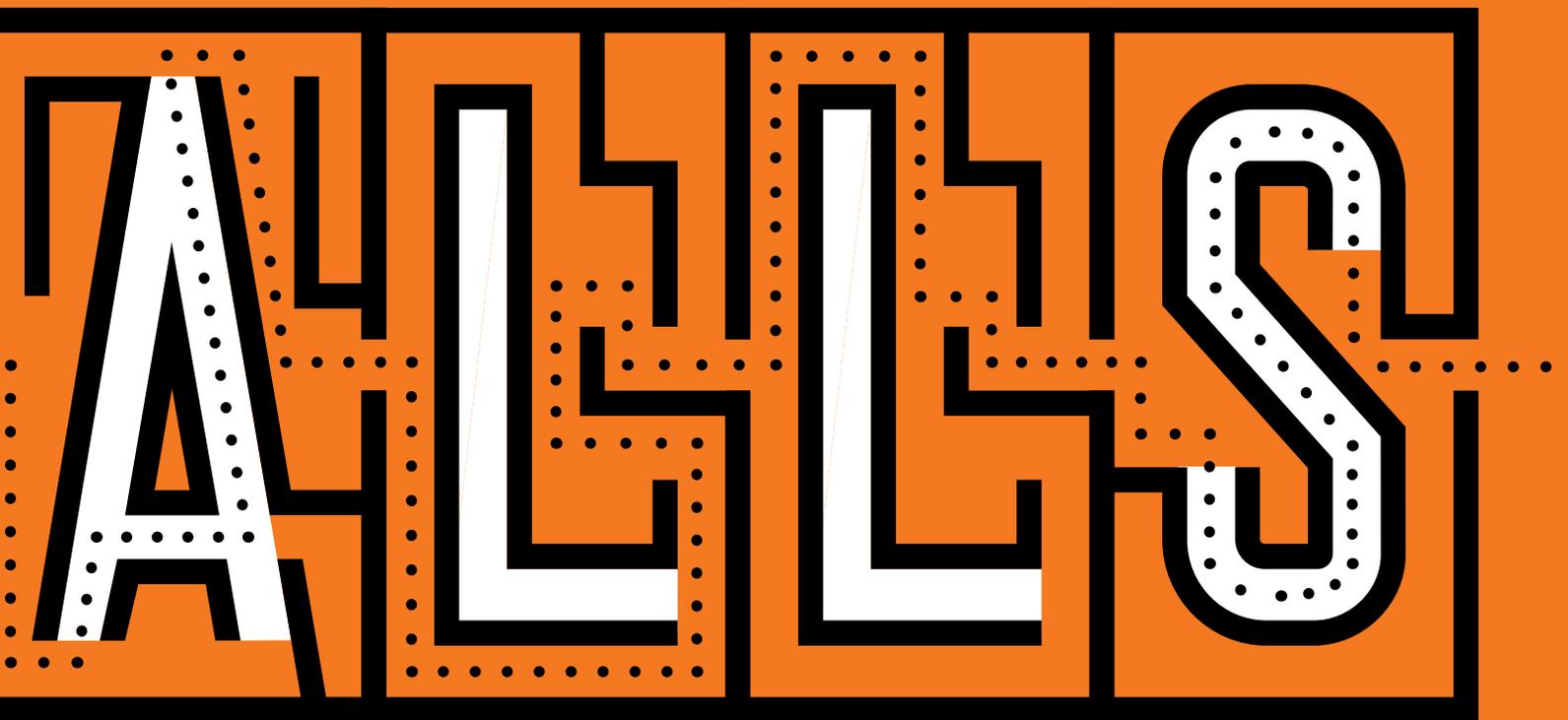


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COMPLIANCE





ACHIEVING SUCCESS IN PEO M&A TRANSACTIONS: KEY ELEMENTS FOR COST-EFFECTIVENESS AND SUCCESS

BY STEPHEN CALVERT, ESQ. AND MATTHEW CLARK, ESQ.

In today's competitive business environment, mergers and acquisitions (M&A) have emerged as powerful tools for companies to drive growth, expand market presence, and enhance competitiveness. Within the Professional Employer Organization (PEO) sector, executing successful M&A transactions requires a strategic and multi-faceted approach.

This article focuses on the essential elements for achieving cost-effective and successful M&A transactions in the PEO sector, including:

- Appropriately sizing due diligence
- Evaluating risk against the purchase price
- Industry knowledge
- Cultural fit
- Linking corporate strategy to M&A strategy
- Transparent decision-making processes
- The importance of an experienced M&A team and cooperation with external advisors and specialists

APPROPRIATELY SIZING DUE DILIGENCE

Due diligence is the cornerstone of any M&A transaction, providing valuable insights into the target company's operations, financial health, regulatory compliance, and potential risks. In the PEO sector, where regulatory requirements and client relationships are paramount, due diligence must be appropriately sized to uncover critical information without unnecessarily prolonging the process or inflating costs.

Key areas of focus include assessing client contracts, employee benefits programs, compliance with labor laws, and the scalability of technology infrastructure. By tailoring due diligence to

the specific needs and objectives of the transaction, acquirers can identify potential deal-breakers early on and negotiate more favorable terms.

EVALUATING RISK AGAINST THE PURCHASE PRICE

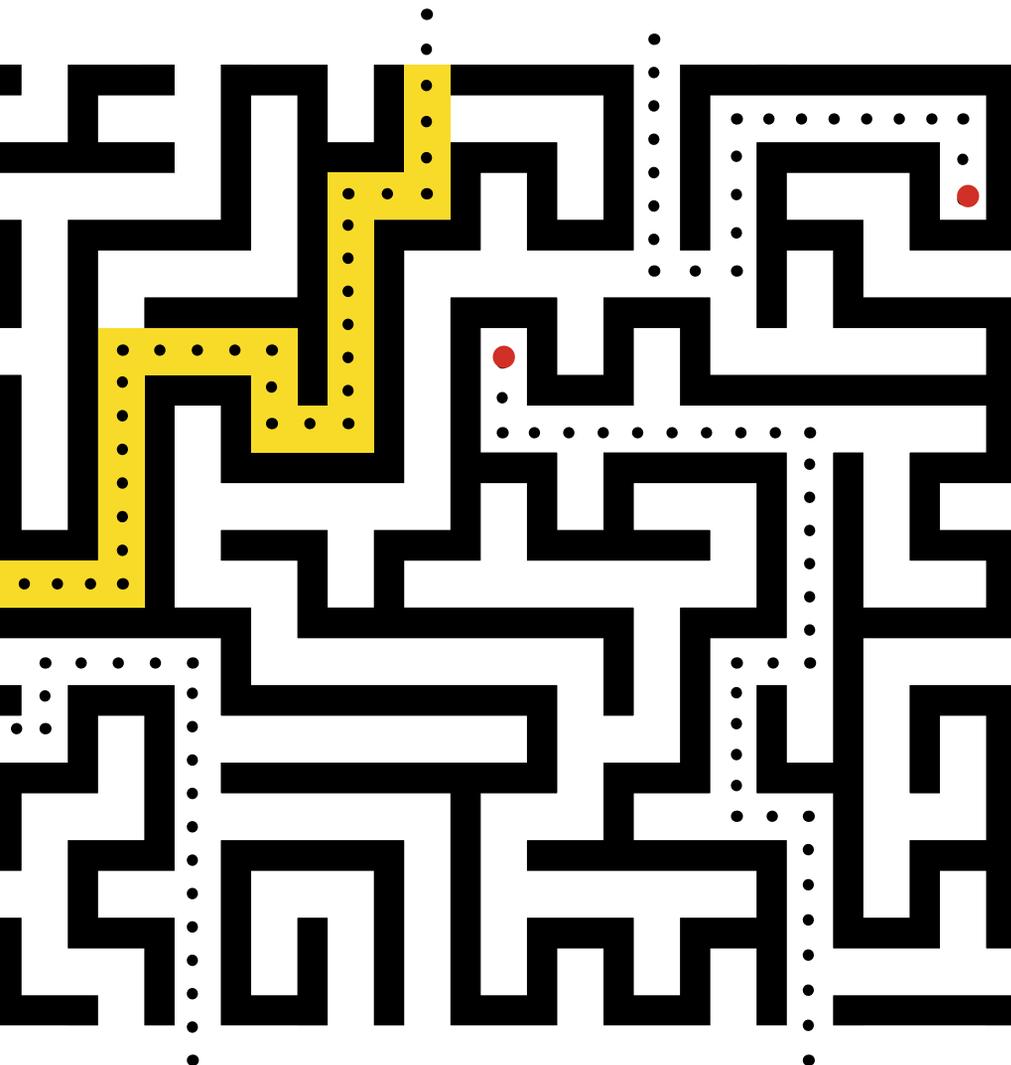
Balancing risk and reward is essential when determining the purchase price in an M&A transaction within the PEO sector. Acquirers must conduct a comprehensive risk analysis to assess factors such as client concentration, attrition history, regulatory changes, and competitive pressures.

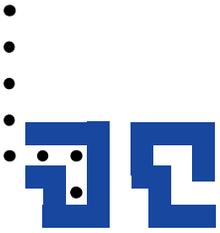
By evaluating these risks against the perceived value and growth potential of the target company, acquirers can negotiate a purchase price that reflects a fair exchange of value while providing a sufficient margin of safety. Structuring the deal with appropriate risk-sharing mechanisms, such as earn-outs or contingent payments, can further align the interests of both parties and mitigate downside risk. Whether pegged to a multiple of gross margin, EBITDA, or some other calculation mechanism, setting the right purchase price and contingency structure is key to a successful M&A transaction in the PEO space.

KNOWLEDGE OF THE INDUSTRY

A deep understanding of the PEO sector is indispensable for navigating the intricacies of an M&A transaction successfully. Acquirers must stay up to date on industry trends, regulatory developments, and competitive dynamics to make informed decisions and capitalize on opportunities.

Industry knowledge enables acquirers to identify strategic targets, assess synergies, and develop integration plans that maximize value creation. Moreover, leveraging industry relationships and networks can facilitate deal sourcing, due diligence, and post-merger integration efforts, enhancing the efficiency and





Transparency and open communication are essential throughout the M&A process to build trust and alignment among stakeholders.

effectiveness of the transaction. Identifying technology and vendor overlap between the acquirer and the target and having a successful migration/integration plan are of particular importance in PEO deals.

CULTURAL FIT

Cultural fit is often overlooked but critically important in the success of M&A transactions. Given the people-centric nature of the PEO sector, aligning organizational cultures and values is essential for fostering employee engagement, retaining key talent, and preserving client relationships.

Acquirers must assess cultural compatibility early in the due diligence process and develop strategies to address any potential mismatches. Building trust, communication, and collaboration between the acquirer and the target company's employees, and ultimately its clients, is necessary to ensure a smooth transition and realize the full potential of the combined entity.

LINKING CORPORATE STRATEGY TO M&A STRATEGY

Effective M&A transactions within the PEO sector are grounded in a clear understanding of the acquirer's corporate strategy and objectives. Acquirers must articulate how the transaction aligns with their long-term goals, whether it's expanding geographic reach, diversifying service offerings, building critical mass in an existing area, or gaining competitive advantage.

By linking corporate strategy to M&A strategy, acquirers can prioritize target selection, allocate resources effectively, and drive value creation for shareholders. Moreover, a well-defined M&A strategy provides a framework for evaluating potential opportunities, conducting due diligence, and executing integration plans with precision and purpose.

TRANSPARENT DECISION-MAKING PROCESS

Transparency and open communication are essential throughout the M&A process to build trust and alignment among stakeholders. Acquirers must establish clear decision-making criteria and involve key stakeholders, including board members, executives, and advisors, in the evaluation and approval process.

Transparent communication helps manage expectations, mitigate conflicts, and address concerns proactively, fostering a collaborative and constructive environment for deal execution. By keeping stakeholders informed and engaged at every stage of the transaction, acquirers can minimize uncertainty and resistance, paving the way for a smoother integration and realization of synergies.

EXPERIENCED M&A TEAM OR COOPERATION WITH EXTERNAL ADVISORS AND SPECIALISTS

Engaging experienced professionals with expertise in M&A transactions within the PEO sector is instrumental in navigating the complexities and nuances of the deal process. Whether it's internal M&A teams or external advisors and specialists (or both), having seasoned professionals on

board brings valuable insights, analytical rigor, and negotiation skills to the table.

Experienced M&A teams can provide strategic guidance, perform rigorous due diligence, and execute integration plans with precision and speed, reducing execution risks and enhancing the likelihood of success. Moreover, external advisors and specialists can offer independent perspectives, access to industry benchmarks, and negotiation leverage, augmenting the acquirer's capabilities and maximizing value creation.

Achieving success in M&A transactions within the PEO sector requires a comprehensive and disciplined approach that encompasses multiple critical elements. By integrating the foregoing elements into their M&A strategies and execution plans, acquirers can navigate the complexities of the PEO sector with confidence and realize the full potential of their investments. ■

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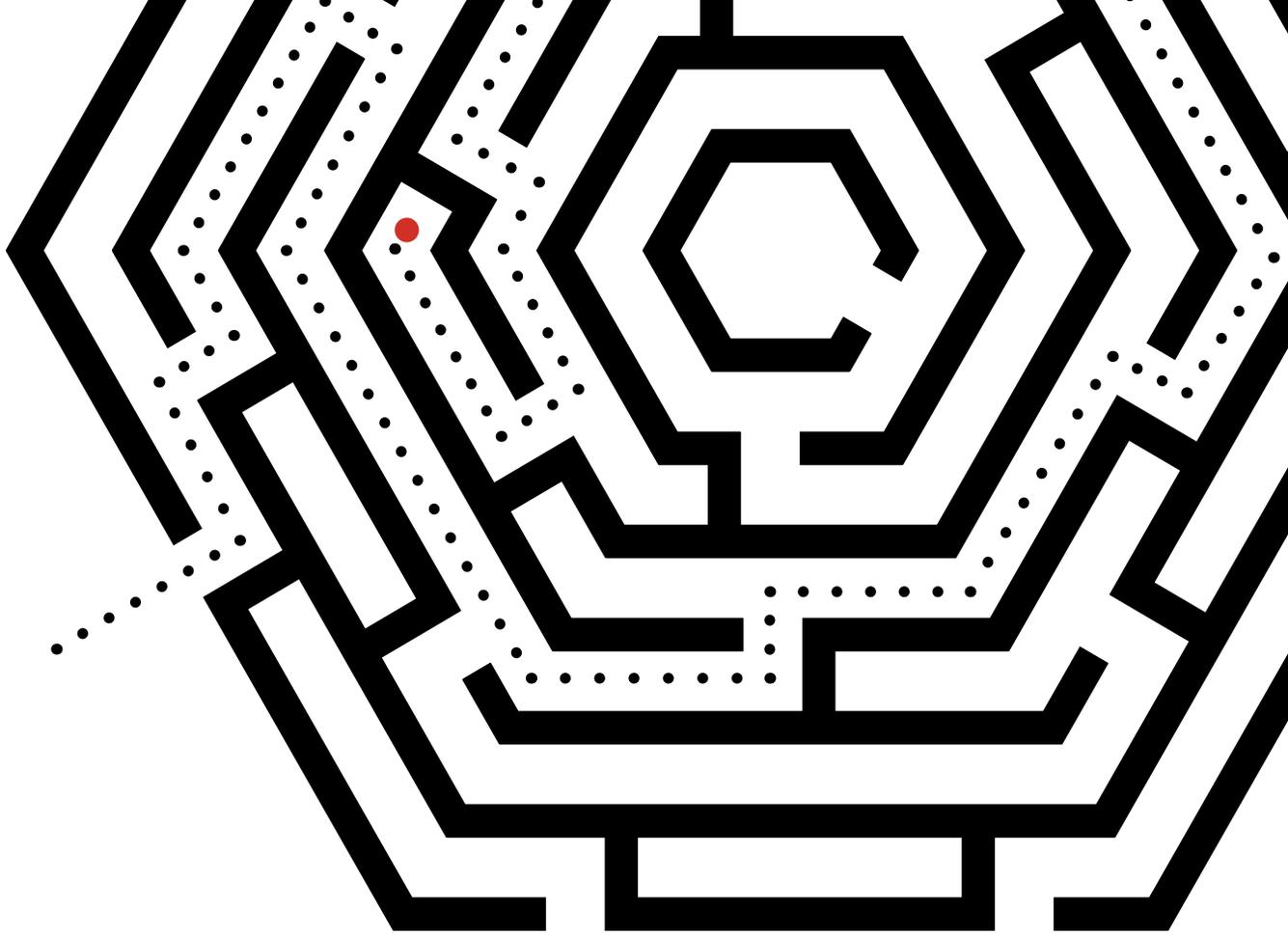


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LEGAL AND REGULATORY ENVIRONMENT





NAVIGATING THE COMPLEX MAZE OF EMPLOYMENT REGULATIONS: MANDATORY EMPLOYEE HANDOUTS

BY LILLIAN M. CHAVEZ, ESQ.

As labor laws continue to evolve, navigating the intricate compliance landscape poses ever-growing challenges for employers. Since its inception in 1913, the Department of Labor has played a pivotal role in developing fair labor practices. However, the regulatory framework has expanded far beyond physical postings, largely due to the modernization of labor standards and commitment to protecting workers' rights.

Today, without a comprehensive roadmap that encompasses both labor law postings and employee notices (also called "employee handouts"), the path to achieving comprehensive labor law compliance remains rocky.

WHAT ARE EMPLOYEE HANDOUTS?

Beyond displaying physical postings on a wall – or in the case of remote and hybrid employees, providing digital postings – employers are required to distribute certain notices directly to employees under specific circumstances. These notices cover a variety of topics and, just like labor law posters, they vary by state and municipality, change frequently due to new or updated laws, and carry consequences for noncompliance.

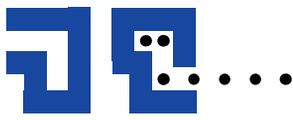
Nationally, more than 400 notices are required, with as many as 24 per state – and this number continues to rise. In the past year alone, there were more than 100 changes in mandatory handouts. As

more states and municipalities enact laws to enhance employee rights and protections, the requirements for mandatory handouts informing employees of their legal rights is escalating steadily.

WHEN ARE HANDOUTS REQUIRED?

Certain events trigger the distribution of handouts, such as when an employee requests time off for a protected absence, like caring for a sick family member or their own pregnancy-related condition. Other triggering events include workplace injuries, employee separations, or changes in pay.

Additionally, certain handouts must be provided to employees upon hiring and periodically redistributed to all



Employment laws aren't the only changing variable with employee handouts; mandating agencies regularly update the notices...and don't alert employers.

employees in compliance with the law. These include a wide range of topics, from sexual harassment policies and protections for whistleblowers to overtime and minimum wage standards, earned income tax credits, and wage theft. The specific requirements vary depending on the state of operation and the size of the organization.

CHALLENGES IN COMPLIANCE

While many of these handouts are accessible for free on various agency websites, there is no central repository for all required notices. Obtaining and maintaining compliance with these regulations is no easy feat, especially for multi-state employers and PEOs serving multiple clients.

Another important detail is the way the notice is to be distributed. Should it be

printed on paper and physically handed to the employee, or can it be distributed electronically? Is an employee acknowledgement required? The nuances are plentiful and can land an employer in trouble if not handled correctly.

THE COSTS OF NONCOMPLIANCE

Failure to provide required notices or using outdated ones can lead to significant financial penalties. At the federal level, these penalties can soar to \$25,000 or more, while state fines typically range between \$100 and \$500 per violation. In some cases, delays in distributing certain notices can even trigger daily penalties, compounding the financial burden on businesses. The most pressing concern for employers, however, is the heightened risk of employee lawsuits.

Noncompliance may strip businesses of essential legal protections, such as the statute of limitations defense. This defense allows employers to have claims dismissed if they were filed too late. Yet if employees are not properly notified of their rights, courts may rule that the employer forfeits this defense. Consequently, claims that could have been easily dismissed may proceed, resulting in increased legal liabilities.

Moreover, failing to meet mandatory handout requirements can be interpreted as evidence of bad faith by courts. This can significantly amplify damages against a business in an employment-related lawsuit, intensifying the financial and reputational repercussions.

A CLEAR PATH TO COMPLIANCE

Similar to labor law posters, mandatory handouts are indispensable for maintaining compliance and informing employees of their rights. In today's complex legal environment, it's vital to keep abreast of regulatory changes or enlist the expertise of a seasoned service provider to navigate this intricate landscape. ■

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MEET CONGRESSWOMAN BETH VAN DUYNE



Hearing first-hand from folks is priceless. It has made a difference. I have seen colleagues on both sides of the aisle have “ah ha” moments because of a personal story from a constituent.

Congresswoman Beth Van Duyne (R-TX) represents Texas’ 24th congressional district in the U.S. House of Representatives. The district includes portions of Dallas and Tarrant Counties, including Southlake, Colleyville, Grapevine, and Irving.

Rep. Van Duyne was first elected to Congress in 2020. Prior to her time in Washington, she served on the Irving City Council (2004-2010), as mayor of Irving (2011-2017), and most recently as the Southwest Regional Administrator for the U.S. Department of Housing and Urban Development in the Trump Administration.

She’s also a former small business owner who operated a successful marketing and communications consulting company. Her background in business influences how she sees issues in Washington and drives her public policy goals.

From her position on the powerful Ways & Means Committee she’s championed legislation that will make it easier for small businesses to succeed by providing a stable, and common-sense regulatory and tax environment. She’s also a strong ally of the PEO industry as someone who recognizes the value that PEOs bring to small business clients.

Congresswoman Van Duyne spoke with *PEO Insider*® to share more about her background, policy goals, and why engaging with your elected officials matters.

PEO INSIDER®: What motivated you to first seek public office?

Rep. Van Duyne: When my daughter was born, she had nine eye surgeries. It’s really sunny in Texas, so I decided to go to the parks department to see about having more shade coverings built in our local park. Then I got on the parks board and got involved in the community. People saw that I was involved which only led to more involvement. I was on the Irving City Council for six years, then served as Mayor for six years. I also served in the Trump Administration at the Department of Housing and Urban Development. Then I ran for congress in 2020.

PEO INSIDER®: What were your objectives and goals as mayor of Irving?

Rep. Van Duyne: We’re (Texas), one of the fastest growing areas of the country because we aggressively pursued economic development. Whatever a local government does, like building schools, roads, water treatment centers, or libraries, it takes tax dollars. You don’t want the burden to be on your residents, you’d rather have it on businesses. You can create opportunities for residents to have meaningful employment if you attract more businesses to your community.

We brought 40,000 jobs and \$3.5 billion dollars of economic development to my community. We had major corporations recognize that places like Chicago and San Francisco were not good for business. Policies have consequences. I can’t compete with the weather in

California, but I can compete on taxes and the job climate.

PEO INSIDER®: Can you share a bit about your career running a small business? What did you learn?

Rep. Van Duyne: There’s a huge difference between having taxes and having revenue. Someone in business recognizes that you must be competitive; you have to take customers’ wants and needs into account. As a business owner I dealt with everything from marketing and price points to hiring people and writing checks. I knew that I got paid only after everything else was paid.

You’re also dealing with competition for talent and clients. Employee benefits are outrageously expensive, it’s hard as a small business to compete with large and mid-sized corporations.

PEO INSIDER®: Given all the challenges small businesses face, how do you think small businesses benefit most from working with a PEO?

Rep. Van Duyne: My first job out of college was with a physician practices company that owned a management services organization. We took small, solo practitioners and grouped them together. The idea was economies of scale. Administaff [later to be re-branded to

Insperty, Inc.] was the HR component we used.

For us, we wanted the physicians to focus on healthcare, not on HR and all the regulations they had to comply with. When you're looking at small businesses, you want them to be focused on their core competencies. PEOs help them do that.

PEO INSIDER®: What are the most pressing concerns you hear from small businesses?

Rep. Van Duyne: Regulatory issues are huge. President Biden has proposed almost \$1 trillion in new regulations, many of which burden small businesses. We had

one compelling hearing where a small business owner held up a three-ring binder filled with the proposed regulations.

He said, "If you pass this, it will put me out of business. I won't be able to compete with the large corporations that have entire departments dealing with this."

Access to capital is another issue. Where are small businesses getting their dollars? How can they invest and grow? So many community banks have shut down over regulations which limits where small businesses have historically accessed capital. That's an issue.

When I host business roundtables in my district, many business owners say

hiring people is still a challenge. Benefits are so expensive that it's hard to compete for labor with large companies.

And, of course, inflation. The cost of gas and energy increases your costs, but not all costs can be passed onto customers. It's unsustainable.

PEO INSIDER®: What are your ideas or policy goals to alleviate some of these concerns?

Rep. Van Duyne: My small business bill [the Small Business Regulatory Reduction Act] that passed out of committee will require regulators to identify how much regulations will cost, and make them budget negative or

NAPEO President & CEO Casey Clark meets with Rep. Van Duyne.



neutral. When we look at how we can alleviate these pressures, this is one idea.

The Tax Cuts and Jobs Act is also significant. All businesses talked about how beneficial TCJA was to their business model. We're looking at extending those tax cuts, and we're trying to make those tax credits permanent.

Businesses recognize there is no consistency to the rules which makes it hard to meet requirements if they are always changing. We need to prioritize creating a stable regulatory framework and make as many tax cuts and credits permanent as possible.

I've also held two North Texas job fairs to address workforce challenges. At our job fair last summer, we connected 375 employers across a variety of industries representing 15,000 job openings with more than 16,000 jobseekers.

PEO INSIDER®: Why is it important for small business owners to engage with public officials? What do you find most helpful from talking with business owners and constituents?

Rep. Van Duynes: You put a face to a story, and a story to a problem. We can talk about hypotheticals all we want, but real stories are so impactful. Legislators have ideas in mind when we come up with policies, but the domino effect from unintended consequences is real. Small businesses see this, and they can tell us, 'this rule will cripple my ability to invest in my employees and in the future of my business.'

I wouldn't take it for granted that elected officials understand this. Hearing first-hand from folks is priceless. It has made a difference. I have seen colleagues on both sides of the aisle have "ah ha" moments because of a personal story from a constituent.

PEO INSIDER®: What advice would you give PEO owners and executives about how best to tell their story and engage with lawmakers?

Rep. Van Duynes: Just be prepared to share your story and have a solution in mind. I'll ask questions because I want to know more and really understand the issue. Anyone can complain about a problem but helping us [legislators] to come up with a solution is important. What does a fix look like? Do we just need a tweak to legislation? Are we talking about a new bill, or about stopping bad legislation?

People point to the regulatory environment and say it's too much, but it's very helpful if you help me figure out which regulations to address. It's like a game of Jenga. If we take this one out, is the whole tower going down? Help me find the duplicative ones, the ones that have never been revisited or phased out.

In a Congressional office, we're dealing with everything from appropriations bills and foreign policy to trade policy and taxes, and healthcare, and transportation. You name it; we're dealing with it.

It's helpful to have someone define an issue and define the consequences. So often people just say, 'we need more money'. It's not sustainable. Every time you ask for a federal dollar, there's strings attached.

PEO INSIDER®: What is it like serving in the U.S. House? Did anything surprise you about Washington?

Rep. Van Duynes: There's not a typical day. During my first term, I never met some of my colleagues. We had proxy voting and proxy committee meetings. The Capitol was closed. As a former mayor that was bizarre to me. When I was mayor, people knew where I shopped, where I went to church, and where my kids went to school. I saw

constituents all the time. It wasn't like that in Washington.

I did not appreciate how difficult it is to see legislation introduced and passed on the House floor. It's a much more arduous process than I had thought. Around 11,000 pieces of legislation were introduced last year, and only a few hundred passed the House.

I also wish there was more time for legitimate debate. You're pulled in so many different directions, and your knowledge on a worldwide group of subjects is expected to be extensive. There's not one of us who is an expert on everything. I'm someone that likes to know everything I'm voting on and have time to prepare and discuss with staff. It's so extensive that you're learning about new issues all the time.

PEO INSIDER®: Are there common misconceptions about Congress readers should understand?

Rep. Van Duynes: I would highlight the number of pieces of legislation introduced. Sometimes people assume that if a piece of legislation didn't get passed it's because it was controversial or lacked support. The reality is that sometimes there's simply not enough hours in the day to address each piece of legislation.

I also find it humorous when folks say, 'well you went on a two-week vacation because you're not in DC.'

The focus should be that DC is where we vote, but when I go home, it's not vacation. I'm working in the district, hearing firsthand from people living in my district what their issues are. I'm meeting with healthcare professionals, parents, educators, small businesses, restaurateurs, and hosting events. It makes me a better representative to take the time to learn about the people who live in my district. It's very easy to get lost in DC. ■



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NAPEO PAC: WHY YOUR ENGAGEMENT IS PIVOTAL FOR OUR INDUSTRY

BY BRENT TILSON

STRATEGIC INVESTMENT

As the Chair of the NAPEO Political Action Committee (PAC), I want to emphasize the strategic value of our PAC in our activities in Washington. The political landscape might seem daunting to many, yet I encourage you to consider your participation in the NAPEO PAC as a strategic investment rather than merely a political contribution. This PAC is unique—it is operated by NAPEO members to specifically advocate for the PEO industry, focusing on advancing our collective interests in Congress beyond any political party ties.

UNDERSTANDING PACS: A FRAMEWORK FOR ACTION

What exactly is a PAC? Federal election law allows PACs to serve as vehicles for individuals or organizations with aligned interests to pool resources to support political candidates who advocate for their causes. Our PAC champions federal candidates committed to the PEO industry. We adhere to strict guidelines: only personal contributions are accepted, ensuring our operations remain transparent and true to our mission.

OPERATIONAL INSIGHTS: GOVERNED BY STRUCTURE

Our PAC operates under a strict set of bylaws approved by the NAPEO board of directors. These bylaws designate a

PAC Committee responsible for fund-raising, candidate endorsement, and financial oversight. Thom Stohler, our capable vice president of federal government affairs, manages these operations as the PAC Treasurer, ensuring compliance with all FEC regulations with the expert assistance of the Wiley Law Firm.

DECISION MAKING: SELECTING OUR CHAMPIONS

Our committee undertakes a rigorous process to choose which federal candidates to support. This involves a thorough review of candidates prepared by NAPEO staff, selecting those who best align with our legislative and regulatory objectives. We use stringent criteria to evaluate potential candidates, considering their committee influence, potential impact on our agenda, and existing relationships with our members.

IMPACT AND SUCCESS STORIES: A CLOSER LOOK AT SENATOR TODD YOUNG, REPRESENTATIVE ERIN HOUCHIN, AND REPRESENTATIVE KATHERINE CLARK

Our PAC's strategic contributions have made a significant difference, exemplified by our relationship with Senator Todd Young. Back in 2014, when he was Representative Todd Young (R-IN), I

invited him to visit my company to discuss the Affordable Care Act. That meeting sparked a relationship that grew as I became a financial supporter of his subsequent campaigns. The PAC also contributed, helping to cement his ties with the PEO industry. When he later ran for the Senate, we supported his successful campaign, knowing his strong advocacy for our industry would continue. His influence was crucial during the implementation of the Paycheck Protection Program (PPP), when it seemed that PEO clients might be excluded from receiving loans. Thanks to Senator Young, an FAQ was inserted into the PPP guidelines,



This PAC is unique—it is operated by NAPEO members to specifically advocate for the PEO industry, focusing on advancing our collective interests in Congress beyond any political party ties.

ensuring that PEO clients could participate. This intervention was pivotal, safeguarding countless jobs across the industry.

In addition, our PAC proudly supported Representative Erin Houchin in her successful 2022 Congressional campaign. Rep. Houchin is distinguished as the only member of Congress who has directly worked for a PEO—my very own. Her firsthand experience within our industry equips her with unique insights and a profound understanding of our challenges and opportunities. This intimate knowledge makes her an incredibly effective advocate for our interests in Congress. Her election into such a competitive field was significantly aided by our PAC, illustrating our commitment to elevating leaders who truly understand and can advance the PEO industry.

Similarly, Bob Burbidge supported Representative Katherine Clark since her

initial 2012 congressional campaign. Her rise to the position of House Minority Whip—and potentially to House Majority Leader should the Democrats regain control—illustrates the significant impact of our early support. Hosting PAC-sponsored events at Genesis HR for Rep. Clark has been instrumental in fostering her ongoing electoral success and her continued advocacy for our industry. Together, these relationships highlight the strategic foresight of our PAC in backing candidates who can make a substantial difference for the PEO industry at the highest levels of government.

BIPARTISAN APPROACH: SUPPORTING ADVOCATES, NOT PARTIES

Our dedication is to the PEO industry, not any political party. The NAPEO PAC has consistently maintained a balanced approach, supporting candidates across

the political spectrum. This neutrality, verified by Open Secrets, highlights our commitment to championing advocates who understand and promote our industry's needs.

CALL TO ACTION: HOW TO JOIN OUR EFFORTS

We invite you to deepen your involvement. By signing the PAC solicitation form at www.napeo.org/pac, you enable us to communicate directly with you about our PAC's initiatives. Signing up does not obligate you financially, but it does allow you to stay informed and engaged with our activities. ■



BRENT TILSON

*President & CEO
Tilson
Greenwood, IN*



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PEOS IN THE COMMUNITY: LANDRUMHR: EMPOWERING THE NEXT GENERATION

BY EVAN FALLOR

Educating and empowering the future workforce is a cause that's become something of a second full-time job for Britt Landrum III, LandrumHR's president and CEO.

He has long championed an active mind and body, a mantra he's now etched as a tenet of the Pensacola, Florida-based PEO started 54 years ago by his father, Britt Landrum, Jr.

Staying true to the company's core values of "learn, share, and grow," Landrum has instituted a culture of charitable giving to provide the next generation the tools they need to live healthy and professionally fulfilling lives.

Landrum and his wife, Keena, for many years were heavily involved with Junior Achievement, a 105-year-old global nonprofit that teaches children financial literacy and how to get and keep jobs. A past board chair of Junior Achievement's Northwest Florida chapter, Landrum spent countless hours in local classrooms showing students how to start a company, put together a business plan, and hire the right folks. The soup to nuts on how to start a business. He also preached to them the importance of education and how to effectively manage money to support your family.

"He really poured his efforts into it," said Ildi Hosman, LandrumHR's director

of public relations and internal communications who served as president of Junior Achievement of Northwest Florida for five years. "And then the company followed suit."

With Hosman spearheading much of LandrumHR's community service efforts, the firm now dedicates its time with Take Stock in Children, another nonprofit that provides mentors and college scholarships to low-income and at-risk students in Florida.

A number of LandrumHR employees, including senior staff, personally sponsor these students through the donation of laptops and their mentorship. If students hit required milestones

and adhere to the principles of the program across their high school years, they receive a full scholarship within the state of Florida to the college of their choice. Unsurprisingly, it's been rewarding to watch mentees grow up and thrive in the system.

"It's a great program," Landrum said. "It's produced people who go on to do great things. It's amazing to see these kids have successful careers."

LandrumHR Chief Information Officer Tom Deen, told *PEO Insider*® that working with Take Stock has given him a chance to make a difference in his current student's life trajectory.



LandrumHR's inaugural 5K last October raised \$15,000 for the Lakeview Center, a behavioral center for adults and children.

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Runners compete in LandrumHR's inaugural 5K that raised \$15,000 for the Lakeview Center, a behavioral center for adults and children.



It's hard to quantify the profound impact LandrumHR has had across Escambia and Santa Rosa counties and across Northwest Florida, but it's clear that the firm has helped shape countless student lives.

In addition to a healthy mind, Landrum, an endurance runner and triathlete, is also a believer in a healthy body. Delegating Hosman as chief organizer, the company last October held its inaugural 5K run, one

that started right outside their building in downtown Pensacola.

The race, dubbed Every Step Counts, was a resounding success. It raised \$15,000 for Lakeview Center, a behavioral health center for adults and children with mental illnesses, drug and alcohol dependencies, and intellectual disabilities. Landrum's father served as past chairman of the center.

"We wanted to draw a parallel between mental health and physical wellness," Hosman said. "And we really loved doing it. We had a lot of volunteering from our community, and we look forward to doing it again this year."

It's hard to quantify the profound impact LandrumHR has had across Escambia and Santa Rosa counties and across Northwest Florida, but it's clear that the firm has helped shape countless student lives.

The Landrum family has established four scholarships at the University of West

Florida, gifting nearly \$115,000 to the school over the past three decades. For five years, the firm has volunteered at Be My Neighbor Day, an event held each March by local PBS affiliate WSRE to promote early education and health. And this month, the firm will sponsor Grillin' in the Breeze, a competitive grilling event that in 2023 raised \$24,000 for Take Stock and the Santa Rosa Education Foundation.

It's all part of the collective mission to set up the next generation to become healthy, educated, qualified, and well-rounded successors.

"It's part of our culture," Landrum said. "The folks that we hire are very giving in general." ■



EVAN FALLOR

Director, Communications
NAPEO
Alexandria, VA



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HITTING THE HIGH NOTES: REELIN' IN THIS YEAR'S SUCCESS IN FEDERAL AFFAIRS

BY ALEX MILLIKEN

As we quickly approach the midway point of 2024, the government affairs team thought it apt to provide an update on how exactly the year is panning out.

Congress is as divided as ever; as of April 10th, the 118th congress has only passed 12 laws, bringing its total for this legislative session to 46 laws. This puts the 118th congress on track to be the least productive congress in modern

history. Congressional productivity has not been so low since before the Second World War.

What is the cause of this lackluster work? Congressional turmoil.

Congress has had to contend with considerable delays, party-in-fighting, and distractions, not to mention a razor-thin majority in either chamber. With the added stress of a presidential election year, it is the perfect recipe for congressional gridlock.

The ripple effect of ousting Speaker Kevin McCarthy is still reverberating through congress. Six months later we can still see evidence of contentious party-in-fighting. Take the recent tax bill as an example, Republicans led the negotiation, received all their objectives and the bill was still delayed in the Senate due to disagreements amongst party leaders. As I type this article, it is not clear whether Speaker Johnson will remain in his position.



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THE SILVER LINING

How has NAPEO done navigating such turbulence? Incredibly well.

We entered 2024 knowing that the odds of any legislation, let alone major bills, were quite low. Furthermore, Congress and the White House are up for partisan grabs in this upcoming election.

Knowing this, we are using this year to build relationships with members of Congress. Working with our outside lobbying firm, Mehlman Consulting, we have participated in more than 40 congressional meetings with members and their staff this year.

We are reaching into new offices as well as deepening our relationships with key members of powerful committees such as Ways & Means, Small Business, and Education and Workforce. We have focused on meeting with members on both sides of the aisle who care about our industry and are in positions to help us grow and strengthen PEOs.

In the first half of this year, we have increased the visibility of our industry and educated members of congress on the important role PEOs play in helping the small business community. So far this year, we have participated in 40 Congressional meetings representing members from 21 different states. Twenty-four of these meetings were with the member of Congress, the other 16 were with influential and key staff members. We are positioning ourselves to be a go-to resource for these offices.

As we look to the latter half of the calendar, we foresee more opportunities for PEOs to stay top of mind. We plan to continue to beat the drum, building upon our work to increase our reputation and relationships with key stakeholders in congress. Moreover, we plan to continue our full court press engagement with members of congress working from our board approved federal priorities.

This is a year where we invest in relationship building for the bigger efforts that follow, most notably a re-write of the tax code in 2025-26. We are playing the long game, educating Congress on the important role we play in growing small businesses and providing benefits to their employees. When the time comes to move our agenda, the key people who determine

legislative priorities will know what we do, know what we want, and be prepared to accept and move our priorities. ■



ALEX MILLIKEN

Director, Federal
Government Affairs
NAPEO
Alexandria, VA

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KEY EPLI MARKET TAKEAWAYS

BY PAUL HUGHES

This January, I had the privilege of participating in a presentation on employment practices liability insurance (EPLI) at the Fisher Phillips PeopleLaw Conference. The conference was outstanding in its entirety, and it was an honor to be part of a panel that was moderated by David Lichtenberg of Fisher Phillips. The panel included experts Michelle Gordon of Markel and Alyssa Pianelli of Aon, each of whom possesses an exceptional depth of experience in this specialized field of insurance, especially in the areas of policy language, underwriting and claims. My role was to play broker in giving people an expectation of what to expect during this year's renewal.

We dissected the current state of the EPLI market, with a particular emphasis on market trends and critical developments to monitor in the upcoming year. Here are the key takeaways that you should keep in mind.

IMPORTANCE OF CORRECT EPLI POLICY FORM

Differentiating between the models of a PEO, staffing firm, and employer of record (EOR) is essential to obtain the correct policy and ensure coverage is provided to

those that expect it. It is especially crucial to tailor coverage to specific needs and risks, especially when multiple business models are operating under a common named insured. It's important to note that staffing forms are designed for single employers, so unless the PEO is explicitly named (as opposed to just the client company), the coverage will not be activated. So, to have coverage for a PEO on this form type, the PEO must be in the complaint, which leaves the client company without coverage until that happens.

INTEGRATION OF POLICIES

If a client company has an existing EPLI policy, understanding how that policy integrates with the PEO's policy is paramount. This ensures "continuous coverage" without gaps. Factors to consider include differences in coverage, limits, retro dates, and which policy is primary versus excess. Master policies for PEOs are typically written on a claims-made basis, which can be complex and requires careful attention to avoid potential coverage gaps. The claim must both occur and be made during the coverage period. This period starts at the retro date on the policy and ends on the expiration date of the policy in force.

The integration of policies is a delicate balancing act. It requires a deep dive into the fine print of each policy to ensure that there are no overlaps or gaps in coverage. This is especially important when transitioning a client from their own policy to that of the PEO. The goal is to create a seamless coverage experience that protects all parties involved without any surprises in the event of a claim. This type of analysis should be done by internal or external licensed brokers that specialize in these types of policy forms and how they apply to PEO.

CLIENT SERVICE AGREEMENTS

A well-defined client service agreement (CSA) dictates the "extended coverage" provided to the client company from an EPLI perspective. It's recommended that the EPLI policy of the PEO not be shared with the client to protect the named insured (PEO or staffing company) from unwarranted claims or incorrect interpretation. The client company is not the named insured in a master policy arrangement and the CSA is often used to set time periods and narrow scope so it does not get triggered for claims the PEO should not be responsible for. The clarity in these agreements is crucial for

risk mitigation and protection for all parties involved.

A well-crafted CSA not only protects the named insured but also provides peace of mind to the client company, knowing exactly what their coverage entails.

CHOICE OF COUNSEL

For larger client companies that have retained their own EPLI policy in the past, the choice of counsel can be a significant factor in the buying decision. The PEO's master policy is designed to cover both the PEO and the client company, but the named insured is the PEO, and they, along with their carrier, ultimately control the decision of which counsel to use. I recommend that clients who want their choice of counsel should purchase their own EPLI with them as the named insured as that is the only way to be control the policy as the named insured. While most of the time the PEO and client are aligned in strategy and exposure, sometimes they are not and separate counsel is necessary.

DUTY TO DEFEND

The "duty to defend" clause can be a slippery slope, especially when multiple allegations are involved, some of which may not be covered by the CSA. It's usually best practice as a broker to always request a duty to defend, but with defense fees being significant in troubled states like California and New York and retentions for many at \$100k and higher, there are new opinions on how or whether to deploy this. Understanding how the duty to defend clause is articulated in the agreement is vital to address situations where some allegations might not fall under CSA coverage, yet the duty to defend forces the EPLI carrier to extend coverage to the client company for issues that have nothing to do with EPLI, but are part of a broader suit that does.

EPLI MARKET STABILITY

The current EPLI marketplace is stable and profitable for both industry stalwarts and new participants, as evidenced by relatively flat renewals. Underwriters are employing creative strategies, including different retentions based on various factors such as individuals involved and their compensation range, client companies, zip codes, wage bands, NAICS groupings, and employee count. The stability of the EPLI market is a positive sign for the PEO business and we do not foresee material increases in the next renewal cycle. It indicates a level of predictability and reliability in the availability and pricing of coverage. The creative underwriting strategies employed by insurers are a testament to the industry's adaptability and commitment to meeting the evolving needs of the PEO industry.

AI MODELS IN THE PEO SPACE

While there haven't been significant challenges yet, it's likely that AI models deployed in the PEO space will face scrutiny. There are several known areas of concern and potentially many others that have not even been thought through yet. The group felt the greatest potential exposure right now for PEO arises from usage of AI hiring models. There are already cases and laws suggesting these models inherently are biased, coupled with their lack of transparency, attracts attention from policymakers. So much so that a first-of-its-kind law requiring companies to audit artificial intelligence systems for bias when using them in hiring and promotion decisions recently went into effect in New York City, leaving employers and auditors scrambling to comply. As of July 2023, New York City employers have to independently audit their systems for bias and publish the results on their company websites, or face fines.

Another insurance-related area to watch is the use of employee personal

information to price group health insurance and workers' compensation. Additionally, other AI models profile "problem claimants," using unpublished scoring techniques which could be found biased by flagging some employees versus others and expected outcomes based on things like sex, age, race and income level.

EMPLOYEE OR INDEPENDENT CONTRACTOR MISCLASSIFICATION

The recently approved federal rule by the U.S. Department of Labor in March 2024 focuses on the issue of employees not being properly classified as employees but as independent contractors with none of the rights or benefits an employee would have. This is particularly relevant in the context of "people insurance" such as workers' compensation, health insurance, and EPLI, as it affects the classification of employer-employee relationships for the purposes of being a "covered employee."

The new law seeks to provide clarity and consistency in the classification process, which is a welcome development for all stakeholders involved. This currently active law can have material effects in audits of employees, especially in workers' compensation where past premiums can be charged if it is proven an employer-employee relationship exists.

As we look ahead to 2024, the EPLI landscape is poised for continued evolution. Staying abreast of these trends and developments is key to navigating the market effectively and ensuring that coverage remains aligned with the needs of businesses and their employees. ■



PAUL HUGHES

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WOMEN IN NAPEO



A BROKER'S PERSPECTIVE ON HOW PEOS CAN RETHINK THEIR MARKETING APPROACH

BY CHANTAL RAINERI

PEOs can be a valuable partner and solution for businesses for a variety of reasons. These include scalability, efficiency, adaptability, and, at its core, allowing the employer to focus on their business.

But how does an employer understand which PEOs might be the right fit? PEOs deliver a compelling sales pitch and value proposition, so how do you identify the appropriate PEO of choice?

There are four key areas for PEOs to consider when marketing themselves to potential clients.

1. TRANSPARENCY

Not all PEOs are created equal, and neither are their proposals. It can often be difficult for employers to ascertain details in the proposed contracts, such as the administrative fee and what it includes. Most employers look for add-ons such as time and attendance, recruiting, and training. Having these as part of your initial proposal as additional services, with the fees attached, would proactively address employers' initial concerns. Also, any mandatory coverages or add-ons in your proposal should be highlighted upfront. The goal is to make

it easy for the employer to identify the fees in consideration.

Another area where the issue of transparency has come up is in data protection and data sharing. The new trend where PEOs are limiting access to census data, plan summaries, and invoices is a practice that fuels a negative perception of the PEO industry. For example, citing the Health Insurance Portability and Accountability Act¹ as a reason to not release information is factually incorrect, as PEOs, brokers, and the employer all qualify to have access to the data². Furthermore, when an employer seeks an alternative to their current PEO provider, they are compelled to notify their current partner. This can likely translate into an unfriendly working relationship that fuels a negative perception of this industry.

More streamlined access to their data reduces the hurdles for employer clients and their consultants to effectively market their program for an alternative provider.

2. SERVICE MODELS

Not all service models are created equal, and each PEO uses slightly

different terminology to describe those services. Clearly identify the nature of your model. For example, clarify if it is self-service, technology-based, or if you require the use of a call center for initial inquiries. Define the roles and responsibilities of the personnel attached to the customer service team so employers know whom to contact for their questions.

3. TECHNOLOGY

Within our PEO practice, we have seen an uptick in client requests for assistance with payroll processing. Two common payroll errors we have seen firsthand are with LLCs when partners are taking distributions and during bonus allocation which needs a payroll exception for taxation purposes. It is not enough to pitch a blanket ability to process unique payroll scenarios; instead, provide examples of distinct solutions you solved that pertain to your prospect.

Describing how payroll is processed with timing is crucial, as is the standard available reporting package versus custom report building. Employers can be complex and unique; so are their payroll and reporting needs. Inspire them to have

confidence in your platform's ability to seamlessly deliver their needs.

4. BROKER AND CONSULTANT PARTNERSHIPS

The PEO industry has embraced the role of the trusted advisor and continues to make strides in building and fostering those relationships. PEOs would likely continue this trend by prioritizing building client relationships rather than focusing on transactions. The ongoing relationship with the client and their advisor is essential. Companies are looking for ongoing communication support for their own employees and options for continual education about benefits and plan coverage. Implementing quarterly service check-ins to work jointly on renewal releases enables the PEO and

the consultant to continue demonstrating the partnership and commitment to their mutual client's best interest.

Lastly, if PEOs wish to continue expanding their broker footprint, investing in broker-consultant partnerships can support that objective. Some PEOs vary in their prioritization of these relationships. Brokers seek ease of access to their PEO partners to build on their success while minimizing administrative challenges like broker representatives, direct sales force, or underwriting challenges. As a PEO, you can be the solution. For example, to address underwriting challenges, having a shorter approval process to determine if a fit exists would be a tremendous asset to the employer and broker community. This streamlines the process when identifying possible provider partnerships.

Most brokers understand that the PEO industry was built on the B2B model. However, there is great opportunity to pivot and adapt, embrace change and evolution, and continue their success while prospering alongside their broker partners. Leveraging these tenets as part of their marketing strategy can go a long way to realizing that success in the future. ■

- 1: <https://www.hhs.gov/hipaa/for-professionals/privacy/special-topics/de-identification/index.html#coveredentities>
- 2: <https://www.hhs.gov/hipaa/index.html>



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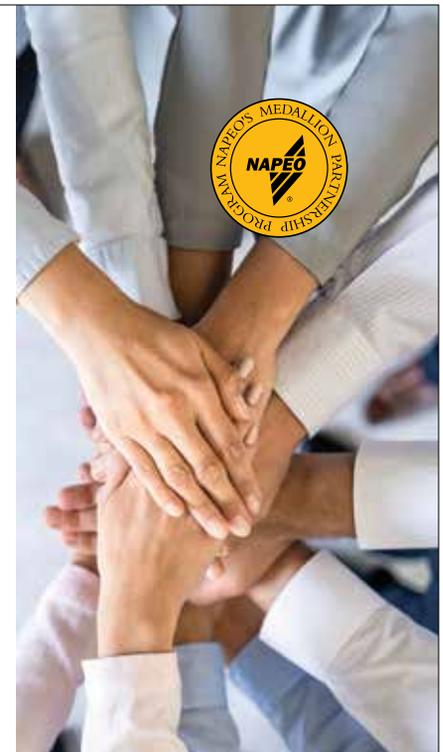
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EARNED WAGE ACCESS: PEACE OF MIND FOR EMPLOYEES IN UNCERTAIN TIMES

BY ANDY SONGER

In an era where personal financial stability is a growing and real concern among employees, the advent of Earned Wage Access (EWA) stands as a beacon of hope for individuals navigating the complexities of modern-day finances. This innovative financial solution has emerged as a lifeline for those living paycheck to paycheck, offering a bridge between earnings and expenses. In this article we will address and answer many of the concerns over the concept of Earned Wage Access, its mechanisms, benefits, potential drawbacks, and its transformative impact on individuals, families, and employers. PEOs looking to bring more value-added benefits to their clients have taken notice, and have begun partnering with vendors providing EWA services.

EWA is a financial service that allows employees to access a portion of their net earned, but unpaid, wages before their scheduled payday. Unlike traditional payday loans, which often come with exorbitant interest rates and fees, EWA provides a more affordable and transparent solution. Partnerships between employers and EWA providers make it

easily accessible to employees. This arrangement empowers employees to access their hard-earned money when needed most, without resorting to costly borrowing options. Access to an employee's wages is on a net basis, not gross. EWA is not a loan, or an advance, these are the net funds that the employee has earned up to any given point in the pay period.

The process of utilizing EWA is relatively straightforward. Employees enroll in an EWA program through their employer or a third-party provider, gaining access to their earned wages via a mobile app or web platform. Through this interface, they can track their earned but unpaid wages in real-time. When faced with unexpected expenses or financial emergencies, employees can request a portion of their earned wages through the app. The requested amount is typically transferred to their bank account or prepaid card within minutes or hours, depending on the EWA provider's policies.

Employers have a responsibility to ensure their employee's prudent use of EWA. Employers may set controls internally to limit the amount of funds

the individual employee has access to at any one time, typically set at 50% of available net wages earned. These guardrails ensure employees always have a minimum amount of money at the end of each pay period.

The benefits of EWA extend to both employees and employers in many ways. EWA provides employees with greater control over their finances, enabling them to access their earnings when needed most. This flexibility empowers individuals to navigate financial challenges with confidence, whether it's covering unexpected expenses or managing cash flow between pay periods.

By providing an alternative to high-interest payday loans or credit card debt, EWA helps individuals avoid falling into a cycle of financial hardship. Access to earned wages mitigates the need for costly borrowing options, ensuring financial stability and security.

Financial stress can take a toll on individuals' overall well-being. EWA alleviates financial anxiety and provides peace of mind through access to funds for emergencies which contributes to improved mental health and productivity. Employees can avoid the potentially

uncomfortable and sometimes embarrassing process of asking their employer for an advance.

HOW EWA BENEFITS THE EMPLOYER

Employers often experience improved employee retention rates and potential hires view this as a deciding factor. By providing a valuable financial benefit, employers demonstrate their commitment to employee well-being, fostering loyalty and engagement among their workforce.

Some EWA providers offer financial education resources to help employees manage their finances effectively. By equipping individuals with the knowledge and tools to make informed financial decisions, EWA contributes to long-term financial wellness and stability.

While EWA offers numerous benefits, employers should also consider several factors when selecting a provider. It is essential to understand the fees associated with EWA for both employees and employers. Some providers charge fees for accessing wages early, while others offer the service at no cost to the employer. Employers should evaluate fee structures to ensure they align with their budget and the needs of their workforce.

Employers should also identify the preferences and needs of their workforce when selecting an EWA provider. Some providers offer flexibility in how earned wages are accessed, allowing funds to be transferred to any card chosen by the employee. Employers should inquire about the options available to ensure they align with the preferences of their employees.

COMPLIANCE CHALLENGES

EWA isn't without its challenges and has faced various regulatory compliance issues and undergone a complex history of regulatory scrutiny. For years the PEO industry has attempted to implement

EWA into their offerings, however, regulatory headwinds from state and federal agencies have prevented measurable success. Only recently did some states, including California, approve EWA access.

EWA services have historically operated in a regulatory gray area due to the absence of specific regulations governing these financial products. As a result, the regulatory environment surrounding EWA has been subject to interpretation and scrutiny by state and federal authorities. Several states have enacted legislation or issued regulatory guidance to address EWA services. These regulations often focus on consumer protection measures, such as fee transparency, disclosure requirements, and caps on transaction fees. The regulatory landscape varies significantly from state to state, posing compliance challenges for EWA providers operating across multiple jurisdictions, and to PEOs with worksite employees in multiple states.

EWA services may also be subject to federal regulations, particularly if they involve partnerships with financial institutions or banks. Providers that offer EWA through bank partnerships must comply with federal banking regulations, including those related to consumer lending, fair lending practices, and electronic fund transfers.

In response to regulatory concerns, some EWA providers have proactively engaged with regulators to address compliance issues and advocate for clear regulatory frameworks. Industry associations and advocacy groups have also emerged to promote responsible EWA practices and support regulatory efforts that balance consumer protection with innovation.

The regulatory landscape for EWA continues to evolve as policymakers grapple with emerging financial technologies and their implications for consumer financial protection. As EWA services

become more widespread and mainstream, regulators are likely to continue monitoring the industry closely and implementing regulations to safeguard consumers while fostering innovation in the financial services sector.

RISK MANAGEMENT

Another growing concern among this new service focuses on fraud within EWA systems which can manifest in various forms. Most challenges are common to all areas of personal and commercial finance and information including identity theft and data breaches which are recognizable to the public, while other instances and tactics are lesser known.

Employees may attempt to manipulate their earnings or work hours to inflate their access to funds through EWA. This can involve falsifying timesheets, exaggerating hours worked, or colluding with coworkers to artificially boost earnings. To mitigate this risk, employers can implement robust time-tracking systems, conduct regular audits of employee hours, and enforce strict policies against time theft and dishonest behavior. EWA providers should have in place robust security measures, such as access controls, encryption, and real-time monitoring, to detect and prevent unauthorized access attempts.

Despite the many challenges, EWA continues to gain approval among regulatory bodies both at the state and federal level; employers are beginning to recognize the talent acquisition and retention benefits. As I have heard many PEO experts say, "you can fight it, but EWA is coming, and it's not a matter of if, but when." ■



ANDY SONGER

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5 STRATEGIES TO KEEP SALES MOMENTUM GOING

BY CLAY M. KELLEY, SHRM-SCP

Slow times...when are the slow times of the year? Top salespeople are top salespeople because they refuse to believe that any time of the year is slow.

In reality, from May through mid-September, PEO sales teams must make two to three times the number of contacts to appoint the same number of prospects they are accustomed to seeing in Q4 and Q1. Without proper planning and execution sales momentum and—more importantly—results, can slow down.

Make no mistake, what you are doing right now, every day, will impact your sales results in Q3, as well as Q4 and Q1.

The following strategies can keep the sales momentum throughout the year and generate consistent sales results regardless of the time of the year.

1. GET INVOLVED!

Your community needs you! Not as a salesperson, but as a person who wants to better their community. Get involved where business owners are involved. Chambers of Commerce and other business associations are great when you get involved, and that means “selflessly serving.”

Every association needs volunteers to serve on committees and boards. In 2010, I joined the Chamber of Commerce in Arlington, Texas. The following year, the CEO of the Chamber needed someone to be the Chairman and help run the Chamber Golf Tournament. Count me in! Over the years, serving on committees led

to being on the Chamber Board, the Executive Committee, to serving in the Arlington community and great client relationships. *Genuine* involvement to better an organization will lead to more business.

2. CONDUCT CLIENT CARE MEETINGS

Wouldn't you want to know if your client relationship is at risk? You better. You should be meeting with *every* client at least quarterly. The purpose of the client care meeting is to gauge client satisfaction and ask for referrals and letters of recommendation.

Great salespeople under promise and stay engaged with their clients. Great salespeople take accountability when things go wrong and keep the client posted through resolutions. That doesn't mean salespeople should be account managers, it means they are relationships managers.

Every client should lead to more clients. You just have to stay engaged and ask clients for their help. Adopt the following strategy as soon as you gain a new client relationship, it will set the tone that you are going to ask and quite frankly expect their referrals: *“Our goal is to meet and exceed your expectations so you will always be confident that we will take care of the businesses that you refer to us.”*

Every client *likely* belongs to an industry group or an association like NAPEO. NAPEO and other like associations have a mission to advance the interests of their members. Every client has businesses that they depend on like



Every client should lead to more clients. You just have to stay engaged and ask clients for their help.

vendors and suppliers, *they* have clients that need your PEO and they have advisors. Like CPAs.

3. REQUEST REFERRALS TO YOUR CLIENT'S CPA AND WEALTH MANAGER

CPAs, wealth managers and other advisors are gold. When advisors understand the value your PEO is bringing to your mutual client, they are incredible sources of referrals. May through September is the time to get in front of clients to gain a meeting with their CPA.

Five important points for meetings with advisors:

- One: Request an introductory meeting, with you, your client, and their advisor; get everyone together.
- Two: Let the client do the talking, they will say good things about what your PEO is doing for them.
- Three: Adopt an advisor mindset. Remember your PEO is advising your client on matters of HR, compliance, risk, benefits, and payroll. You have gained a seat in an advisor meeting—so act like it! This is not a sales call, this is a peer to peer advisor meeting!
- Four: State the facts of how your PEO helps clients.
- Five: Casually offer to take the advisor through your proposal process so they



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can see the professionalism of your advisor/discovery process.

Thorough due diligence should assess the PEO on all fronts, think of it as a data room on steroids. A thorough review of the company’s finances, operations, legal compliance, accounting and tax, facilities, technology, and sales and marketing are just a few. Any due diligence checklist should be thorough and comprehensive.

4. PROVIDE INCENTIVES FOR REFERRALS

Chances are your PEO already has some sort of client referral incentive program. If not, start one now! Whether it is a revenue share, an invoice credit, sports tickets, gift cards, thank you dinners, bringing lunch to the entire company, all expressions of gratitude go a long way to bring more client opportunities.

It is important to note that revenue shares or monetary incentives for a CPA firm may be a potential conflict of interest. Taking them to sporting events,

making contributions to charities they may be involved in are unlikely to be seen as a conflict of interest. On the other side, wealth managers may accept a revenue share or a financial incentive. In 2009, I met a wealth manager through a mutual association. That wealth manager has referred me to a number of clients and he receives a revenue share that has grown to over \$36,000 a year.

5. SEMINARS

Seminars are a great way to provide education to your clients and keep your PEO as top of mind as a value-added resource. When you invite *prospective* clients to educational an seminar it demonstrates your value.

Four Key Strategies for Successful Seminars:

- One: Give clients different colored name tags than prospects so you can easily identify who is who.
- Two: Conduct three seminars in the same day. You will get more attendance

when you offer three options: breakfast, lunch and happy hour.

- Three: Select a distinguished location like a country club, social club, or great restaurant.
- Four: Present great content that makes people want to attend. Every client needs help improving culture, hiring, performance management, essentials of management, counseling techniques and avoiding the pitfalls firing.

All these strategies work! With proper planning, you can keep the sales momentum through the “perceived” slow times. The key is to be consistent, and you will keep the sales momentum going with a healthy pipeline of qualified opportunities. Wishing you the best of success! ■



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TURNING COMPLIANCE CHALLENGES INTO COMPETITIVE ADVANTAGES: A WINNING MARKETING STRATEGY

BY TODD LABEAU

It's no secret that one of the most constant challenges for organizations of all sizes is navigating the ever-changing regulation and compliance landscape. From payroll taxes to healthcare mandates, the complexities of regulatory compliance can be daunting, leading many businesses to seek assistance and expertise from outside sources, including PEOs. This presents a unique opportunity for PEOs to turn compliance hurdles into competitive advantages through strategic marketing that not only addresses clients' compliance needs but also differentiates themselves in a competitive market. By highlighting the value of their services in navigating these challenges, PEOs can reassure businesses about their decision to seek outside assistance. This article will explore the top opportunities and offer tips for PEO marketers to leverage compliance challenges to build trust, drive client acquisition, and deliver sustained growth.

UNDERSTANDING COMPLIANCE CHALLENGES

Navigating the diverse landscape of compliance challenges across industries, regions, and audiences demands constant attention. PEOs must be able to go deep into regulatory frameworks while translating legislative updates into actionable and manageable outputs for their clients. Through diligent market research and continuous monitoring of relevant changes, PEOs can effectively pinpoint critical compliance issues confronting businesses today.

Tip: PEOs can instill confidence in their clients by staying informed about the latest compliance trends and updates. This can be achieved by subscribing to relevant industry newsletters, attending regulatory

seminars, and networking with legal experts. By using automated alerts to monitor new and related content, PEOs can take a proactive approach to stay ahead of regulatory changes. Creating and maintaining a repository of this information and sharing it with internal stakeholders frequently can further enhance this confidence.

BUILDING EXPERTISE AND RESOURCES

At the heart of any successful compliance strategy lies HR expertise. PEOs must invest in building a team of compliance specialists with in-depth knowledge of regulations and the skills to navigate and communicate complex compliance issues. Continuous training and professional development can ensure that these experts stay ahead of the curve, providing clients with timely and accurate guidance that is actionable.

Tip: Encourage your compliance team to pursue professional certifications and participate in regular training sessions to deepen their knowledge and stay ahead of regulatory changes. Empower these teams with marketing tools, like marketing automation, to help them share their knowledge easily through email newsletters, email templates, and scripts. Be sure to go beyond just sharing the compliance information and emphasize 'why it matters' to their client's businesses.

CREATE AND MARKET TAILORED EDUCATION

In an era of information overload, PEOs should develop modern and personalized approaches to educating prospects about compliance challenges and solutions. Innovative PEOs are moving beyond the standard whitepapers and blog posts to deliver information and thought



By positioning themselves as thought leaders in compliance, leveraging modern channels, and being where their clients are, PEOs can attract and engage prospects seeking guidance in this critical area.

leadership, such as hosting interactive Ask the Expert webinars, sharing snackable-sized social videos, and even creating entertaining podcasts. By positioning themselves as thought leaders in compliance, leveraging modern channels, and being where their clients are, PEOs can attract and engage prospects seeking guidance in this critical area.

Tip: Research your audience beyond just who they are. Dive into where they are to truly understand how to reach them. Test a variety of formats, such as infographics, video tutorials, and live webinars or Q&A sessions, to cater to different learning preferences and engage your audience effectively on multiple channels.

HIGHLIGHTING BENEFITS AND WHAT SETS YOU APART

PEOs who clearly communicate what sets them apart from competitors, like their approach to regulations and compliance, depth of expertise on the team, innovative technology solutions, or personalized

PEO GROWTH

service, are only halfway there. The second, arguably the most important half, is translating why that matters to prospects. Sure, by outsourcing compliance functions, businesses can reduce the risk of penalties and fines, free up time and resources for core activities, and gain access to expert guidance and support. Successful PEOs effectively communicate these benefits to prospects by emphasizing the tangible value those things provide in ensuring compliance peace of mind.

Tip: Consider quantifying the potential cost savings (or value adds) and risk reductions that your compliance services can provide. Create calculators or real-world scenarios that the account and sales teams can share and leverage.

SHOWCASING SUCCESS STORIES

Nothing speaks louder than real-world research, success stories, or case studies. Building trust starts with leaning on past successes and making it easy for

prospects to see how others have gained success by partnering with your PEO. NAPEO's latest research shows that 44% of prospects find out about PEOs through word of mouth from a trusted source. PEOs should showcase testimonials and data demonstrating how they have helped clients overcome compliance challenges and achieve their business objectives. PEOs can build credibility and instill confidence in prospective clients by sharing these concrete outcomes.

Tip: Make someone in your marketing department accountable for identifying and collecting satisfied client information. Encourage clients and partners to share their experiences through written testimonials, video testimonials, or speaking engagements at industry events, amplifying the impact of your success stories. Write scripts that the account teams can leverage in making these asks in the moment, when successes happen, to be even more effective.

OPPORTUNITIES FOR PEOs

By investing in expertise, tailoring solutions, educating the market, highlighting benefits, showcasing success stories, and finding unique and personalized differentiations, PEOs can position themselves as indispensable partners for businesses seeking to navigate complex regulatory landscapes with confidence. Once that position is established, leveraging effective integrated marketing to reach and engage prospects about regulatory and compliance issues in a way that showcases value and delivers on a promise to solve complex challenges is a strategy for achieving sustained growth. ■



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PLAYING OFFENSE: NATIONAL PEO WEEK & PEO ADVOCACY DAY

BY CASEY M. CLARK

It is hard to believe it's already May, and my first PEO Capitol Summit (PCS) and National PEO Week are right around the corner. Both of these events provide unique opportunities to share the value proposition of PEOs with stakeholders in Washington, DC and across the country.

If you've read any of my previous columns in *PEO Insider*, joined any of our webinars or industry events where I've been fortunate to participate in over the past few months, you've heard that I came to NAPEO from the casino gaming industry. And while we had a lot to be proud of – employing millions of Americans, contributing to local economies, generous charitable giving, etc. – we also had a hard story to tell because of who we were and where we'd been. After all, casinos provide opportunities for adults to risk money for the chance to win more, and the industry had earned a reputation from its colorful history that was hard to shake.

That meant we played a lot of defense.

But PEOs have earned the right to take a much different posture. By creating and celebrating National PEO Week we collectively shout our benefits from the rooftops. We take this story

directly to those with the greatest ability to impact our business, and enhance the appreciation for and understanding of all that you do for small and medium sized business.

Once again, Rep. Erin Houchin has introduced an official Congressional proclamation designating the third full week in May as National PEO Week, and NAPEO has been working hard to get proclamations in state capitals recognizing the important work PEOs are doing across the country.

We've also created great new merch, an updated toolkit of National PEO Week resources (napeo.org/peoweektoolkit) and will launch a new ad campaign. I encourage everyone to leverage the opportunity this week presents to promote our great industry.

During PEO Advocacy Day at PCS, we'll bring that message directly to federal lawmakers who need to better understand PEOs as the advocates for and playing-field-leveler for the last remaining, truly bipartisan issue out there: small business. At this annual event, more than 200 industry professionals will come to Washington to share their stories directly with influencers on and around Capitol Hill. This engagement helps advance our industry



As much time as NAPEO spends on the Hill, and as much as we engage NAPEO PAC to build relationships, nothing is more powerful than when our members visit with their representatives.

priorities to support and strengthen your businesses.

As much time as NAPEO spends on the Hill, and as much as we engage NAPEO PAC to build relationships, nothing is more powerful than when our members visit with their representatives. Don't just take my word for it, Rep. Van Dwyne says so herself on pages 32-34.

I'm excited to bring our powerful industry together to play some offense and hope to see all of you later this month! ■



CASEY M. CLARK

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Wishing Rulers of the HR Jungle a Happy National PEO Week!

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