

Responsive 24/7



ATTORNEYS AT LAW

Legal Considerations in the Development of a Wellness Plan:

I. Comprehensive Review of Plan Design

II. Thorough Analysis of Compliance with:

- HIPAA
 - Final Rules of 2013
 - Reasonable accommodation
 - Opportunities for participation
 - Legality of benefits/penalties awarded by program
 - Privacy/Security Laws pursuant to HIPAA/HITECH Act
- Americans with Disabilities Act (ADA)
 - Nature of medical inquiries and examinations
 - Potential for adverse employment actions based upon medical information
- Genetic Information Non-Discrimination Act (GINA)
 - Information requested through Health Risk Assessment (“HRA”)
 - Nature of biometric screening/interview(s)
 - Potential for adverse employment actions based upon family medical history
- Employee Retirement Income Security Act (ERISA)
 - Provision of medical benefit(s)
 - Summary Plan Description and associated employee documents

- Consolidated Omnibus Budget Reconciliation Act (COBRA)
 - Provision of medical benefit(s)
 - Necessity of continued coverage upon request and associated premiums
- Affordable Care Act
 - “Affordability” of program and associated premium discounts/penalties
- Age Discrimination in Employment Act
 - Health information requested through HRA and/or biometric analysis
 - Discriminatory impact of program components on older population
- Title VII of the Civil Rights Act of 1964
 - Minority/ethnic identification requested through HRA and/or biometric analysis
 - Disproportionate impact of health conditions on minority/ethnic groups

III. Examination of Other Legal Considerations:

- Regulation of off-duty employee conduct and potential for employee complaints
- Employer/employee compliance training
 - Record-keeping and employee education instruction for Human Resources staff
 - HIPAA breach reporting and mitigation of risk
- Contract Review:
 - Business Associate Agreements
 - HIPAA Authorization/Release Forms
 - Consent Forms
 - Waivers/Disclaimers
 - ASO Contracts for Self-Funded Plans
- Recent EEOC Litigation