

# Managing Your Personnel and Employment Law Issues in a Pandemic

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# Solutions start with Pre Hiring and Hiring Process

- Training interviewers how to ask job-related questions and interview compliantly with the law
- Developing job descriptions that are detailed enough to qualify and educate candidates

# Solutions Start With the Pre-Hiring and Hiring Process

- Reference checks
  - The right person doing them the right way
  - What if you “can’t” get a reference?
- Pre-employment drug/COVID testing
  - Written policy
  - HIPAA compliance with testing results

# Become an Employer of Choice

- Reasons Why people leave their jobs
- Manager Trainings - 11% due to manager
- Benefits - 9% lack of comp. and benefits (EAP, Wellness)
- Great Culture - 12% Leave for poor Work Life Balance
- Employee Development - 22% leave for lack of career development, while 78% would have stayed longer if they saw a career path with current organization

**The cost of turning over an  
employee=33% of  
employee's salary**

# How Does Paychex Help?

- Paychex employs over 600 SHRM certified HR Generalists
- Employs over 200 Compliance Safety and Health Managers to help navigate OSHA
- First to market on PPP loan forgiveness calculators for businesses
- Award winning 24 hr *stateside* service with direct contacts and minimal wait times.
- Award winning technology to streamline processes, stay in compliance, and avoid penalties.

# Allow me to introduce you to:



**Jay Zweig**

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Jay Zweig practices employment law and commercial litigation. Mr. Zweig represents private businesses, public corporations and governments in avoiding and resolving employment law disputes. Mr. Zweig has more than 25 years experience in representing employers in matters related to human resources, preventing and defending lawsuits related to contracts and non-compete agreements, sexual harassment, discrimination, wage and hour law, class action, whistleblower, OSHA, and workers' comp bad faith issues. Mr. Zweig has been lead counsel in federal and state court trials for clients that range from start-up ventures and professional services firms to Fortune 100 companies.



**Melissa Costello**

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Ms. Costello's practice involves counseling and representing employers on a variety of employment matters related to human resources, preventing and defending lawsuits, and administrative actions regarding contracts, disciplinary issues, employee handbooks, non-compete agreements, separation agreements, harassment, discrimination, wage and hour law, employee rights issues, OSHA, ADA and I-9 compliance issues. She has represented clients on various litigation matters at the administrative level and in state and federal court. Ms. Costello has considerable experience working with clients of all sizes, ranging from local family-owned medical practices, media business and construction companies, to local and national nonprofit organizations, to Fortune 500 restaurant and resort conglomerates.

# Goals of Webinar

- Identify employment issues facing home healthcare agencies
- Consider best practices and legal requirements
- Identify training and policy update needs



# Hiring

- Can you require applicants to give proof of a negative COVID-19 test?
- Can you require an applicant to take an antibody test?
- Can you require new (or continuing) employees to sign a waiver of liability?



# Timekeeping

- What system do you have for keeping track of hours?
- Overtime
  - Regular rate of pay and non-discretionary bonuses
- Risk Management
  - Employees are providing critical care
  - Keep records showing they are not overwhelmed with work

# Keep Employees Safe and Healthy

- What safety processes will you require at the worksite?
  - PPE
  - Hygiene practices
  - Temperature checks
  - Personal protective equipment (PPE)
  - Other? (Social distancing; directional flow; etc.)
- Can you require “high risk” individuals to stay home?
- Must you accommodate “high risk” individuals?

# Monitoring and Addressing Illness

- How will you monitor exposure and illness?
  - Can you require an employee to self-report symptoms or a positive test?
- What steps will you take when an employee tests positive?
  - What about when:
    - an employee notifies you that a close contact has tested positive?
    - an employee tells you he/she doesn't feel well?
    - an employee is scared to work?
    - an employee tells you they don't want to work because of a high-risk family member?

# Reporting

- What type of contact tracing will you do?
- Who will you notify? How?
- What confidentiality requirements must you be aware of?

# Families First Coronavirus Response Act

- Sick Time vs. Extended Family and Medical Leave Time
- Written Policy
- Request and Response Forms

# Written Policies and Training

- More than just having systems in place.
- What will your response be when the EEOC or OSHA asks for proof of lawful and proper systems and processes?

# Your Lawyer is Your Sounding Board

- Get advice when needed.

# Thank you!



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