

# HR COMPLIANCE LIBRARY

## Ideas & Trends

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### INSIDE

#### EMPLOYEE FINANCES

### Financial wellness is becoming a workplace priority

“Financial wellness is a state of being,” explained Liz Davidson, CEO of Financial Finesse in an interview with Wolters Kluwer Law & Business. She continued, “At its epitome, it is the state of total financial security—where you’re able to meet all of your financial goals comfortably. When it comes to how people approach achieving financial wellness, we like to say that it is really a process, not an event. It requires a commitment, both by the person working toward total financial wellness, and the educator, to seeing it through over the long-term. It also requires that people commit to making the changes necessary to their financial habits and behaviors that are hindering their financial wellness.”

According to the most recent data on employee financial wellness gathered by Financial Finesse, employees are continuing to become more proactive about their financial wellness and are continuing to improve their wellness in virtually all areas of financial planning. That said, according to the report, financial stress has not declined. Experts at Financial Finesse believe that employees are becoming more aware of their financial problems as they focus more on their finances, which is creating an increased sense of urgency.

Davidson says there appears to be a series of events that are causing the improvements in employee proactivity regarding their finances. “Employees are using their employers’ financial wellness programs and financial resources in general, more often and more regularly. As they utilize available resources, they are recognizing just how far off they are to achieving financial wellness and, as a result, they’re feeling more stress to improve their situations. This is where they’re showing real improvement—you see, stress in this case, in the right amount, is a good thing! It is motivating employees to take responsibility for their own situations and take the steps necessary to improve it.”

**Why it matters.** “There is a reason companies run credit checks when an employee is hired—it is important to determine whether an employee is in a serious financial crisis which could impact their productivity at work, their stress levels and more long-term, their overall health care costs to the company,” Davidson continued.

According to Financial Finesse data, employees’ financial wellness results in proven cost savings to employers. Tangible cost savings include an improvement of 3.99 hours in absenteeism, an improvement of 1.2 percent in wage garnishment costs, and a net savings of 23.9 percent in company healthcare costs among users.

Davidson says, “I believe given the right tools and guidance, employees will take ownership of their finances and really strive to improve their situations, so in my opinion, helping those employees who are in strong need of it, is something every employer should see as an important component of their role as an employer—especially when

you consider that many benefits, such as health care, are being reduced and costs related to them are being more regularly shifted onto employees.”

### Help from the employer

When asked what employers are doing to help, Davidson says they are devoting significantly more resources, budget dollars, and marketing efforts to helping employees improve their financial wellness.

“More and more employers are offering financial wellness programs as an added benefit, which often times, even tie to their bigger scale physical wellness programs. They’re also doing a lot more to track employees’ improvements, and adapt their programs as their employees’ issues change and evolve.”

Davidson continued, “Also, employers have really made a mind shift from how benefits have traditionally been communicated, incorporating finances as part of their overall benefits education—and they’re broadening the scope of what they cover related to benefits. Rather than focusing on retirement or health care decisions very directly, they’re teaching employees how the decisions they make around these benefits impact their wallet and ability to achieve life goals. This has shown to be a more effective way to communicate benefits since employees tend to appreciate them more when they recognize how they can help them.”

**Is a financial expert necessary?** Davidson explained that she has seen some organizations implement financial wellness programs via a financial expert and she has seen other organizations do it through HR. “I’ve seen it done in a variety of ways,” she says. “I’d say there are levels that organizations can look into based on their objectives and budget for wellness programs, or retirement education (since they can often un-bundle plan fees to put toward external financial wellness initiatives). The best option is really hiring a financial education firm that employs Certified Financial Planner professionals who are solely educators—having no financial products or services to sell employees so that there is no risk for conflicts of interests to the organization.”

After that, Davidson explains that the second best option would be to utilize the plan advisor in charge of the organization’s retirement plan. “Many financial institutions are implementing a more holistic education approach to retirement planning, so they can usually offer some broader scope financial wellness education. The only issue using your retirement plan provider, is that there are potential areas of conflict here—since they inherently do have financial products or services they could attempt to steer your employees to when delivering the education.”

And finally, Davidson says a personal or internal financial expert could deliver financial wellness education but this is typically the least used option as it requires there be someone within the firm that has extensive knowledge on both the company benefits, and financial planning. “Often times, it sucks up more of HR’s time and resources to deliver than it would cost to outsource the education,” Davidson said.

**What areas should employers cover?** To provide employees with holistic financial wellness guidance, employers should consider integrating all aspects of financial planning, including employee benefits. According to Financial Finesse, this includes:

- Home buying;
- College funding;
- Budgeting and saving;
- Estate planning;
- Taxes;
- Benefits planning; and
- Retirement and investing.

Employers’ heavy focus really needs to be on helping employees develop positive savings habits, say the experts at Financial Finesse.

**Accounting for different income levels.** Not all employees earn the same income, so the question must be asked whether or not it is necessary to offer a different financial wellness program to employees in different income brackets. And the answer, according to Davidson, is yes. “There is definitely not a one size fits all approach and the organizations that

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take that approach are often disappointed in the results of their programs.”

Financial planning should be unbiased and be available to all income levels, but in a customized manner. Employees who work in a factory, for example, have very little if any access to the Internet, and work night shifts may need education that focuses on building a strong financial foundation—delivered in person—after work hours or during allotted lunch breaks. Whereas, the C-suite might prefer education covering advanced topics like estate planning and retirement distribution strategies that is delivered online via webcasts, or a resource center that can be accessed at their convenience.

“The employers that take a custom approach, really analyzing the different groups in their workforce, and the different needs, learning styles and circumstances of those groups, are the ones who see the most return on investment of their programs,” Davidson explains. “These organizations’ programs are also the ones that impact employees most significantly to make lasting changes to their finances.”

### Room for improvement

There is still a lot of improvement employees can and should make to achieve ultimate financial wellness, Davidson says.

“For example, nearly half still don’t have an emergency fund to cover unexpected expenses. In retirement planning specifically, employees are not taking the steps necessary to ensure their security—for example, only 19 percent of employees in Q1 2014 had done a fee analysis of their portfolio and only 22 percent of employees said they were comfortable they were on track to retire. Though these are improvements from the year before, the numbers are still far too low. Employees really need to accelerate their improvements in all areas of financial planning.”

As for employers, Davidson says they are generally doing a good job recognizing the need for financial wellness education and following best practices for delivering effective programs. “If an organization hasn’t implemented a program because of budget reasons or because the HR team is strapped on time or resources, I’d say that doing anything they possibly can, is better than doing nothing,” Davidson explained. “Even if you can only provide one workshop a quarter on basic money management, that incorporates your organization’s benefits and shows employees how to apply them to their financial circumstances, then you’re doing something valuable for them. I also stress the importance of analyzing employees’ education needs up front so that the topics you cover in any education you do, is on target with what they really care about and need.” ■

## SOCIAL MEDIA

### If you fire for a Facebook post, be sure to get a copy of the post in question

A Michigan lawyer was placed on the assignment list of the County Probate Court and, as a result, received several case assignments. She made a comment on Facebook about what she believed to be inefficiency at the Clerk’s Office at the Court in a particular case she was handling. She tagged two people in the post, mistakenly identifying them as employees of the Clerk’s Office. One of the two employees brought the post to the attention of the Court administrator. The administrator never saw the actual post. Two days later, the Court administrator notified the attorney by letter that she had been removed from the assignment list because of her comment on Facebook.

She attempted to get back on the list multiple times, but was unsuccessful and filed a lawsuit (*Butler v. Edwards-Brown*, No. 13-13738, 2014 U.S. Dist. LEXIS 62032 (E.D. Mich. May 5, 2014)). The suit alleged several claims, all but one of which was dismissed by the court. The one that survived is a claim for unlawful retaliation in violation of the First Amendment—*i.e.*, a free-speech claim. The court declined to dismiss the free-speech claim for several reasons. First, it held that the plaintiff was speaking as a private citizen—not as an employee—when she

made the post. Second, the court held that she was speaking on a matter of public concern. This finding was based, in large part, on the fact that no one could produce a copy of the actual post and, therefore, the court was left to decide the nature of the speech without ever having *seen* the speech.

No one was able to produce the actual Facebook post because the employee deleted it. That doesn’t seem like exactly the right outcome, does it? Because the plaintiff destroyed evidence, she gets the benefit of the doubt? Maybe not. But it does teach an important lesson to employers. If you are going to discipline or terminate an employee due to something the employee posted on Facebook—get and keep a copy of the actual post if at all possible. Taking someone’s word for what the post says doesn’t mean that the termination is unlawful but it does likely mean that you’re going to have to work a lot harder to prove your case. ■

**Source:** Taken with permission from “Employers, if you fire for a Facebook post, please, get a copy of it first!” posted May 20, 2014, on the Delaware Employment Law Blog by Molly DiBianca, associate at Young, Conaway, Stargatt & Taylor, LLP.

## WEAPONS IN THE WORKPLACE

### Workplace policies must stand up against state weapons laws

If it hasn't already, chances are your organization will, sooner or later, confront the issue of employees carrying concealed weapons at work and, depending on the states in which you do business, you'll need to prepare your organization for laws addressing weapons in vehicles, self-defense, and "stand your ground," and how those laws intersect with your employment policies.

**Non-escalation policy upheld.** In what appears to be one of the first of these cases to reach the federal appeals courts, in June, the Sixth Circuit upheld Walgreens' decision to force a pharmacist to resign for violating its non-escalation policy after he shot at armed robbers while on duty. Even though the pharmacist was licensed to carry under state law, the Michigan licensing statute did not prohibit Walgreens from preventing its employee from carrying a concealed pistol on the job. Neither the conceal and carry law, nor the state's Self-Defense Act, nor any other law cited by the pharmacist provided the basis for a public policy exception to his at-will employment (*Hoven v Walgreen Co.*).

**Shootout with no injuries.** A full-time pharmacist with Walgreens since 2006, the employee had experienced an armed robbery at work in 2007. After Walgreens refused his request that it install a panic button or other security system, he obtained a Michigan license to carry a concealed weapon, bought a gun, and began carrying it to work hidden in his pocket. Several years later, gun-wielding robbers entered the store where the employee was working. When he tried to dial 911, one of the gunmen jumped over the counter and pointed a gun at him. The employee backed away, drew his concealed weapon, and fired it multiple times; no one was shot or injured. Eight days later Walgreens told him he had violated its non-escalation policy and gave him the choice of resigning or being fired. He resigned.

Filing suit, the employee alleged that he was fired in violation of Michigan public policy for "lawfully exercising his right of self-defense, the defense of others, and to carry a concealed weapon." On appeal (the district court granted Walgreens judgment on the pleadings), the Sixth Circuit noted that Michigan courts have not yet considered a claim for violation of public policy involving the rights asserted here. However, the state supreme court had identified three situations where discharging an at-will employee violates public policy, including where the discharge is: (1) in violation of an explicit legislative statement prohibiting discharge of employees who act in accordance with a statutory right or duty; (2) for failure or refusal to violate the law in the course of employment; or (3) for exercising a right conferred by a well-established legislative enactment.

None of the sources of public policy the pharmacist cited contained an explicit legislative statement that would fall within the first public policy exception. As for the second scenario, he pleaded only that he was fired for exercising his rights of self-defense, defense of others, and to carry a concealed weapon, not for "the failure or refusal to violate the law in the course of employment." That left whether the pharmacist was terminated for exercising a right conferred by a well-established legislative enactment, and accordingly the appeals court separately analyzed each of the potential sources of public policy he identified.

**No luck under constitution, jury instructions.** Under Michigan law, constitutional provisions may not be the source of a claim for public policy wrongful discharge by a *private* employer. And though the federal and Michigan constitutions "limit some state interference with individuals' right to engage in self-defense and bear arms, they do not prevent interference with these rights by private actors," the appeals court pointed out. Also misplaced was the employee's reliance on the criminal jury instruction for cases involving the use of deadly force in self-defense, which was not a "well-established legislative enactment," but the product of a state bar committee.

**Self-Defense Act.** Nor did the Michigan Self-Defense Act or related provisions (MCL Secs. 780.971 and 780.951) support the employee's claim because, although they related to self-defense, they did not "confer" a general right to engage in self-defense. Importantly, the employee did not claim he was fired for exercising rights that were conferred by those statutes. First, the Self-Defense Act did not confer a right to engage in self-defense but rather to present a criminal defense (which a jury would evaluate). Also, Michigan's self-defense law applies only in criminal, not civil cases, meaning it did not confer an unlimited right to self-defense. And, if Sec. 780.951 conferred any right, it was to a rebuttable presumption that one acted with a reasonable belief that imminent death or great bodily harm would occur.

**Concealed Pistol Licensing Act.** Similarly, the complex regime for licensing concealed weapons under MCL Sec. 28.421 *et seq.* was not a source of public policy that could support this wrongful discharge claim. He specifically cited Sec. 28.425n(2)(b): "an employer shall not prohibit an employee from . . . (b) Carrying a concealed pistol in compliance with a license issued under this act. This subdivision does not prohibit an employer from prohibiting an employee from carrying a concealed pistol in the course of his or her employment with that employer." But this didn't help the pharmacist, said the court, because the statute says the right to carry a concealed weapon in the course of employment may be limited by the employer.



Even if, as the pharmacist argued, that the last sentence unconstitutionally allows employers to prohibit the carrying of concealed weapons (and should be severed), his claim still failed. He had not claimed that he was fired for carrying a validly-licensed concealed pistol; he claimed he was fired for *firing his weapon in self-defense* at work. So his hypothetical version of the statute also would not support his public policy claim.

## What does this mean for employer weapons or violence policies?

**1. Know your state laws.** The Sixth Circuit's careful analysis of the statutes involved here, particularly Michigan's Self-Defense Act and its concealed carry law, suggests that courts will painstakingly tease apart statutory language in an attempt to discern legislative intent — and to determine whether an employer's actions crossed the line. Notably, not all conceal and carry laws provide specific language addressing employers, as Michigan's does. Moreover, two different federal district courts in Kentucky earlier this year took apart Kentucky's weapons-in-vehicles law to reach different results in separate cases of two employees who were disciplined in situations that involved guns in vehicles. That suggests you should spend a few hours now examining the relevant gun laws in your state in light of the “every word matters” approach courts have taken so far. It could save you substantially more time later.

**2. What does your state's “weapons-in-vehicles” or “parking lot” law specify, if there is one?** Not all states with concealed carry laws also have laws providing for employees' rights to keep a weapon concealed in a locked vehicle on the employer's premises. And, while many of these laws are similar, their language is decidedly not identical, and it is important to track the statutory language carefully. For example, enforcing one employer's weapons policy did not violate Kentucky's weapons-in-vehicles law because the policy did not bar employees from storing weapons in their vehicles; rather, it required employees to complete and file with the employer a “Weapons Approval Form,” which the employee had failed to do. Although the employee argued the statute precluded all forms of regulation, the court disagreed, saying “If the Kentucky legislature had intended to limit an employer's right to require the disclosure of weapons, they would have done so” (*Mullins v Marathon Petroleum Co, LP*).

This would not be true in states like Florida, where “no employer may violate the privacy rights” of an employee (or others) “by verbal or written inquiry regarding the presence of a firearm” inside or locked in a vehicle, or by conducting “an actual search of a private motor vehicle in a parking lot to ascertain the presence of a firearm within the vehicle.” No disclosure can be compelled in Indiana or North Da-

kota either, and Alabama requires an employer believe its employee presents a risk of harm before making an inquiry, for example.

**3. What do you know about your state's stand-your-ground or self-defense statute, if your state has one?** Not all stand-your-ground laws apply only to criminal proceedings, for starters. Moreover, these types of laws typically provide either self-defense or immunity. Self-defense is an affirmative defense — an argument that a weapon user was *justified* in his or her actions. An immunity law, such as Florida's stand your ground law, confers more complete protection, and Florida's law specifically applies in both the civil and criminal contexts.

A Florida state appeals court ruled in April that a finding of stand-your-ground immunity by a criminal court wasn't necessarily determinative in a civil action brought by a non-party to the criminal case that involved “the same nucleus of facts and the same use of force.” The civil case involved a workplace incident — a current employee striking a former employee with a baseball bat — and after criminal charges were dismissed, the employer and bat-wielding employee moved to dismiss the civil action that had been filed against them by the former employee. The Florida appeals court ruled that collateral estoppel did not apply to completely bar the former employee's civil claim, but that the trial court should not have dismissed the claim without conducting an evidentiary hearing on the stand-your-ground immunity claim (*Professional Roofing and Sales, Inc v Flemmings*).

**4. Craft your policies carefully.** Maybe it's self-evident, but consider creating state-specific addenda for your workplace weapons policies. In the Mullins case cited previously, the weapons policy had a Kentucky addendum, which stated, “for Kentucky sites only, employees or contractors who lawfully possess a weapon may store such a weapon in his or her privately-owned vehicle” so long as the employee met certain administrative requirements, including completing and having on file a current “Weapons Approval Form” that disclosed the weapon. Of course, this won't work everywhere; see, for example, Alabama, Florida, Indiana, and North Dakota above.

**5. Watch for legislative changes.** In light of all the above, anticipate that state legislatures also will be watching how judges interpret these laws. In addition to the potential for brand new legislation, states may seek to modify existing laws to close perceived loopholes or ensure that the rights of individuals — or employers — are protected. ■

**Source:** *How do your workplace policies stand up against state weapons laws?*, written by Joy P. Waltemath, J.D. and originally published in the June 17, 2014 edition of *Employment Law Daily*, a Wolters Kluwer Law & Business publication.

## SOCIAL NETWORKING

### Managing social networking without becoming Big Brother

*The following article was written for Human Resource Management: Ideas & Trends, a Wolters Kluwer Law & Business publication, by Michael Indinopulos, Chief Marketing Officer, PeopleLinx.*

When then-PR executive Justine Sacco made her infamous tweet about AIDS in Africa last December, she not only managed to offend billions of people, but also put her employer IAC in the spotlight. Although Justine made the comment from her personal Twitter account, IAC had to publicly disavow the comment and announce that they had fired Sacco.

The episode highlights the way that personal and company brands are interconnected. When employees behave oddly, hatefully, or stupidly on social media, it reflects on their employer and their employer's brand. The inverse is also true: when employees are thoughtful, smart, and strategic on social media, they reflect positively their employer.

Companies and their employees share a common interest in making a strong impression on social media. It's time for them to help each other.

#### Employees don't know what they're doing

Let's face it: most employees don't know what they're doing when it comes to social networking. It starts with LinkedIn profiles. Most white-collar employees have them, and most of them, well, stink. Ask 10 colleagues if they're on LinkedIn, and I'll wager eight will respond with "Yes, but please don't look at my profile."

Social cluelessness goes all the way to the top. Last autumn PeopleLinx analyzed the LinkedIn profiles of the CMOs in the Fortune 100. We found that 10 didn't have LinkedIn profiles at all. What's worse, four of the 10 still listed their previous company as their employer. That's like walking into meetings and saying, "I forgot to order new business cards, so I'll give you the one from my last job."

And these people are CMOs. They're responsible for representing the most powerful brands on the planet.

It gets even worse when you start looking beyond profiles to social *interactions*.

Social networking interactions are different from email, phone calls, or face-to-face meetings. Social networking has its own etiquette, and each individual network further has its own unique do's and don't's. In an effort to be hip or witty, lots of well-intentioned employees make gaffes, faux pas, and occasionally disastrous mistakes.

While it's improbable that your employees will accidentally tweet a lewd photo for example, it's quite likely that someone in your organization has already turned off a customer with an unwelcome LinkedIn invite or a clumsy tweet.

#### Guidance without "Big Brother"

To prevent employees making social networking mistakes, companies are often tempted to block social networking sites or police employees' every social step. Big Brother is a bad solution, but not for the reasons most managers think.

Many managers I meet are wary of a Big Brother strategy because they fear the ramifications of an aggressive anti-social media policy. They'd like to trot out Big Brother, but they worry that employees will freak out. So they take only timid steps, such as blocking social sites from the company network. They know it's not a "real fix", but they've resigned themselves to the idea that it's the best they can do.

I suppose you might call that solution "Little Brother." It's a step in entirely the wrong direction. Social networks have become one of the most pervasive communication channels on the planet. Block or censor your employees on them, and you're cutting your company off from what is probably its best tool for marketing your brand and cultivating authentic relationships. No company can afford to do that.

The best approach—far better than Big Brother or Little Brother—is to empower employees. Encourage them to be present and active on social, and give them the tools, training, process, and metrics to do it right.

Most employees know they need help using social networks. They want guidance on how to build their personal brands, manage their networks, and share content. They'll welcome that guidance from their employer.

- **Personal branding.** Personal branding starts with great profiles. Show employees how to create fantastic profiles on LinkedIn, Twitter, Google+, and other platforms used by your customers. Show them how to upload profile pictures, and help them find (or take) good-looking, professional photos. Make sure they know what name to use for your company and how to describe what it does. Suggest other keywords, phrases, and URLs they should include in their profiles.
- **Managed networks.** Few activities inspire as much social anxiety as managing a network. Give employees the tools to manage their networks strategically. Recommend criteria they should use to form relevant connections. What companies and roles should they target?

Should they connect to prospects during the buying cycle? When and how?

- **Content sharing.** Social sharing is a highly effective form of marketing. Some companies are seeing 20+ clickthroughs on average every time an employee shares. But employees get skittish when they lack compelling content to share, or they're worried about running afoul of company policies. You can remove both barriers by providing employees a steady stream of interesting, relevant content approved by Marketing and Compliance for social sharing. Build up a library of approved blog posts, infographics, videos so that individual employees can select the content that most resonates with them and their audiences.

Social media-savvy employees don't need this level of guidance, and social-phobic employees will opt out no matter how easy you make it. But for the vast majority in the middle, your guidance will make the difference between success and failure in their efforts to promote their personal and their company brands on social.

### Measure and get better

Socially sophisticated companies recognize that social networking is most effective when it integrates and supports existing business processes. Social media is more than a technology, and it's not a business process unto itself. It's a channel of communication, a means of interacting with customers, prospects, partners, and influencers as an extension of existing marketing, sales, and support processes.

As with any tool used in the business process, social media needs to be measured and optimized. What metrics matter? I recommend thinking about social metrics in three broad categories: activity, engagement, and impact metrics.

- **Activity metrics.** These are your basic metrics about how much social activity your company employees are

engaged in. How many employees are participating in your social program? How many have updated their profiles? How many pieces of content have they shared? These questions may not tell you whether you've hit a home run, but at least you'll know whether your employees are stepping up to the plate.

- **Engagement metrics.** These are the standard social "vanity" metrics: Likes, comments, shares, followers, etc. They tell you whether your social networks are paying attention to what your employees say and do on social.
- **Impact metrics.** These are what you really care about, and they vary according to what team you're supporting. If you're doing social customer care, measure resolution times and customer satisfaction. For social marketing look at clickthroughs generated, and which of those clickthroughs resulted in real leads. For sales, you should measure how much of your pipeline and deal flow ties to prospects your team found on social networks.

The most successful companies don't avoid employee social networking. They get involved. They move quickly past risk mitigation and integrate social into their core business processes. They look at social networking as another opportunity to better market, sell, and deliver to their customers.

Most important, successful companies recognize that employees hold the keys to unlocking that value. A study by Forrester found that 70 percent of US adults trust brand or product recommendations from friends and family and 46 percent trust consumer-written online reviews, while just 10 percent trust ads on websites and 9 percent trust text messages from companies or brands. Rather than stifle their employees on social, great companies guide, empower, and encourage them. There's nothing Big Brother about that.

"The most successful companies don't avoid employee social networking. They get involved." ■

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## CONFERENCE COVERAGE

### Annual SHRM Conference draws crowd from 91 different countries

This year's Annual SHRM Conference & Exposition was held June 21-25 in Orlando, Florida. The Society for Human Resource Management (SHRM) conference drew 11,000 attendees from 91 different countries. Highlights from the conference include former First Lady Laura Bush, the keynote speaker, thanking HR for all that they do. In addition, SHRM released several of its annual surveys, giving HR an idea of what's happening in the field now as well as what lies ahead.

### Workforce transformation expected

What will the world of work look like years from now? Research sponsored by the SHRM Foundation and written by The Economist Intelligence Unit (EIU) identifies key findings on the changing nature of work and resulting implications for human resource and other employment law professionals. Released at the conference on June 23, the *Evolution of Work and the Worker* report predicts:

- Demographic shifts will continue to pose contrasting challenges, with the developed world facing an aging workforce while emerging markets prepare an overwhelmingly young population for work.
- Growing workplace diversity, in terms of age, culture and — particularly in emerging markets — gender, will require a sophisticated response from managers.
- Technological advances will provide companies with a deeper pool of labor, but will present them with complex challenges in managing cross-border teams.
- The expanding global workforce and growing competition for jobs will weaken workers' power to negotiate wages, salaries and other benefits.
- Economic inequality will increase as technology allows the automation of tasks formerly performed by mid-skilled workers.
- At the same time, companies will face a persistent skills shortage among highly specialized technical workers and senior managers and executives.
- Companies will need an increasingly sophisticated understanding of operating risks across emerging and developing markets.
- HR managers will need reliable data on human-capital issues in new markets to make sound strategic business decisions and minimize risk.

## *Despite rising health care costs, employers are redirecting more of their financial resources toward health and wellness benefits...*

**Wage expectations vs shareholder value.** The research also found that although large increases in productivity have created substantial economic growth over the last few decades, workers' wages have not kept pace. Several factors were identified to explain this phenomenon. Technological advances permit higher returns with fewer workers; globalization has allowed companies to look for cheaper labor elsewhere; and the focus on shareholder value has led to pressure for higher profits. This pressure on wages, according to the research, is likely to continue, with the result of lower expectations from workers and potentially reduced expenditure by individuals on education.

### **Employee benefits adjusted to emphasize health care, wellness**

Despite rising health care costs, employers are redirecting more of their financial resources toward health and wellness benefits, according to the *2014 SHRM Employee Benefits Report*. "Organizations see a need to maintain key benefits in areas such as health care, where costs are rapidly rising," said Evren Esen, director of SHRM's Survey Programs. "As a result, this may mean fewer resources are left to invest in benefits that are less in demand."

The report shows a five-year trend increase in the percentage of organizations offering mental health coverage, contraception coverage, vision insurance, and coverage for bariatric and laser vision surgery. Currently, almost all organizations (98 percent) offer some type of health care coverage to their full-time employees, with the most common health insurance being a preferred provider organization (PPO) plan. Five-year trends also show a shift of health care costs to employees. As an example, there was a 12 percentage point increase in the number of organizations offering health savings accounts (HSAs) and a 17 percentage point increase in the prevalence of employer contributions to HSAs.

According to the report, the median annual cost for employee-only coverage is \$5,838, and the median percentage employers contribute toward employee-only health care coverage is 80 percent.

The top wellness benefits offered to manage chronic diseases and other health-related issues include: health and lifestyle coaching (47 percent), preventive programs specifically targeting employees with chronic health conditions (42 percent), subsidies or reimbursements for fitness center memberships (34 percent), weight-loss programs (32 percent), onsite fitness centers (20 percent), and nutritional counseling (20 percent).

At the same time, the survey noted a decrease in the last five years in financial and compensation benefits such as dependent care flexible spending accounts, undergraduate tuition assistance and executive incentive bonus plans.

Among other findings:

- The most commonly offered benefits were paid holidays (96 percent), dental insurance and prescription drug programs (both 95 percent), organization-provided break room/kitchenette (91 percent), and traditional 401(k) or similar defined contribution retirement savings plan (89 percent).
- The shift to defined contribution retirement savings plans and Roth 401 (k) savings plans continues, with only 24 percent of organizations reporting that they now offer defined benefit pension plans that are open to all employees.
- The most commonly offered women's health benefit is contraceptive coverage (84 percent).
- Approximately three out of five (59 percent) organizations offered some form of telecommuting; 54 percent of respondents reported that their organizations offered telecommuting on an ad-hoc basis, 29 percent part of the time, and 20 percent on a full-time basis.



- Fewer organizations are offering undergraduate tuition assistance (54 percent), compared to 2010 (62 percent). Additionally, fewer organizations are offering graduate tuition assistance (50 percent) compared to 2013 (59 percent).
- The three family-friendly benefits that have decreased over the last year were domestic partner benefits for same-sex and opposite-sex partners and adoption assistance.

New benefits added to this year's report include divorce insurance (less than 1 percent), safety bonus/incentives (13 percent), free snacks and beverages (20 percent), electric vehicle charging stations (4 percent), and company paraphernalia (62 percent).

### Employees in only fair financial health

A majority of HR professionals describe the financial health of their employees as no better than fair, with young adults experiencing the most financial stress, according to SHRM's *Employee Financial Stress Survey*. Employees' financial circumstances may be affecting absenteeism. Almost two-fifths of respondents said that employees have missed work in the past 12 months because of a financial emergency.

"The results could signal that financial issues are a growing challenge for employees in many workplaces," said Evren

Esen, director of SHRM's survey programs. "Anxiety related to finances could be an increasing source of employee stress that has a direct impact on health care costs, absence and productivity. As a result, money management strategies — including budgeting and investing — may increasingly be considered as a part of workplace stress management and wellness initiatives."

A majority of HR respondents (70 percent) described their employees as being somewhat financially literate, the survey said. And 17 percent said their employees were not at all financially literate.

Overall, 61 percent of respondents describe the financial situation of their employees as no better than fair. Organizations with a larger percentage of hourly employees were more likely to say that their employees' overall financial health was fair and rate their employees as not at all financially literate.

Retirement planning (81 percent of organizations) and financial literacy training for investing (42 percent) were the most common types of services offered to employees. Nineteen percent of organizations offer employees loan products from a third-party provider, and 18 percent of organizations offer payroll advances. Almost three-quarters of the respondents who reported offering third-party provider loan products said the products have a positive impact on employees' overall ability to manage their financial difficulties. ■

## HR QUIZ

### Timing key when responding to FMLA requests

**Q Issue:** *One of your employees has requested leave under the Family Medical Leave Act (FMLA). How quickly do employers have to respond to requests for FMLA leave?*

**A Answer:** According to the U.S. Department of Labor (DOL), an employer must determine, by the time the leave would start, whether the employee who made the request is eligible for FMLA leave — that is, whether she has worked for the employer for at least 1,250 hours in the past 12 months.

Once the employer has received notice from the employee requesting the leave, the DOL rules require that the employer advise the employee of his or her eligibility for FMLA leave within five business days, absent extenuating circumstances. Note that, prior to January of 2008, employers had only two days to respond to an employee's FMLA request.

The eligibility notice must state whether the employee is eligible for FMLA leave. If the employee isn't, the no-

tice must state at least one reason why the employee is ineligible. A rights and responsibilities notice must be provided at the same time as an eligibility notice. This notice must detail the specific expectations and obligations imposed upon the employee and any consequences for failure to meet those expectations and obligations. The employer must also notify the employee whether the requested leave will be designated and counted as FMLA leave.

**Impact of failing to meet notice rules.** If an employer fails to follow the notice requirements, the employer may be liable for compensation and benefits lost by reason of the violation, for other actual monetary losses, and for equitable relief, including employment, reinstatement, promotion, or any other relief that is tailored to the harm suffered by the employee.

**Source:** 29 CFR §825.300.

## HR NOTEBOOK

**CPI for all items rises 0.4% in May on broad set of increases**

The Consumer Price Index for All Urban Consumers (CPI-U) increased 0.4 percent in May on a seasonally adjusted basis, the U.S. Bureau of Labor Statistics (BLS) reported June 17. Over the last 12 months, the all items index increased 2.1 percent before seasonal adjustment.

The seasonally adjusted increase in the all items index, which was the largest since February 2013, was broad-based. The indexes for shelter, electricity, food, airline fares, and gasoline were among those that contributed. The food index posted its largest increase since August 2011, with the index for food at home rising 0.7 percent. The increases in the electricity and gasoline indexes led to a 0.9 percent rise in the energy index.

**Real average hourly earnings falls 0.2 percent in May**

Real average hourly earnings for all employees fell 0.2 percent from April to May, seasonally adjusted, the BLS reported June 17. This result stems from a 0.2 percent increase in the average hourly earnings being more than offset by a 0.4 percent increase in the Consumer Price Index for All Urban Consumers (CPI-U).

Real average hourly earnings fell 0.1 percent, seasonally adjusted, from May 2013 to May 2014. This decrease in real average hourly earnings, combined with an un-

changed average workweek, resulted in a 0.1 percent decrease in real average weekly earnings over this period.

**Payroll employment rises by 217,000 in May, but unemployment sticks at 6.3%**

Total nonfarm payroll employment rose by 217,000 in May, and the unemployment rate was unchanged at 6.3 percent, the BLS reported June 6. The unemployment rate held at 6.3 percent in May, following a decline of 0.4 percentage point in April. The number of unemployed persons was unchanged in May at 9.8 million. Over the year, the unemployment rate and the number of unemployed persons declined by 1.2 percentage points and 1.9 million, respectively.

Over the prior 12 months, nonfarm payroll employment growth had averaged 197,000 per month. In May, employment increased in professional and business services (+50,000), health care and social assistance (+55,000), food services and drinking places (+32,000), and transportation and warehousing (+16,000).

Manufacturing employment changed little over the month but has added 105,000 jobs over the past year. Within the industry, durable goods added 17,000 jobs in May and has accounted for the net job gain in manufacturing over the past 12 months.

Employment in other major industries, including mining and logging, construction, wholesale trade, retail trade, information, financial activities, and government, showed little change over the month.

**Majority of Americans favor flexible workplace policies**

The vast majority of Americans (89 percent) feel employers should try to offer workers flexibility to meet their families' needs, so long as the work gets done, signaling a strong sentiment in favor of the concept of flexible workplaces. What's more, over half (52 percent) of U.S. workers (not including those self-employed) – and nearly six in ten working parents (58 percent) – feel they could do their job better if they were allowed a more flexible work schedule.

Similarly, 43 percent of workers and 46 percent of working parents say they could do their job better if they were allowed a more consistent and/or predictable schedule. These are some

of the results of The Harris Poll® of 4,096 U.S. adults surveyed online between May 27 and 30, 2014. In fact, U.S. companies may be making some real gains in this area, as two-thirds of both overall Americans (67 percent) and, more specifically, U.S. workers (66 percent) believe employers are getting better at offering workers flexibility to meet their families' needs.

This progress may be increasingly important over time, as Millennial workers seem especially optimistic about flexible work schedules' ability to improve job performance: over six in ten (61 percent) believe they could do their job better if they were allowed a more flexible schedule. ■