

e m p o

IN THE KNOW INSIGHT INTO HR NEWS



Is Your Business H1N1 Ready?

Annelise Larson, HR Consultant

By now you have undoubtedly received numerous H1N1 chain emails giving various tips on how to protect yourself from the illness. In all of the hype, employers are wondering: If this pandemic hits my workplace, what am I going to do?

Obviously there are many things to consider when dealing with this issue. You currently have policies and procedures in place, but the question to consider is: are they going to make sense if your workforce is affected by the flu?

Here are several points to consider when preparing yourself and your workplace for a pandemic:

Communication Communication is KEY when dealing with sensitive topics. Make sure your communication regarding your response or policies concerning H1N1 is clear and concise, but also in line with your company culture. If you stray from the norm, employees won't get an accurate message and will be confused.

Develop Or Review A Plan To Maintain Operations During A Pandemic. Identify your essential employees and determine how you can continue operations without them. Cross train current employees to be prepared to handle additional responsibilities if other employees are out sick. Consider providing tools to work from home and the option of working on a flexible schedule.

Leave & Attendance Policies Consider temporarily revising your leave and attendance policies based on the upcoming threat. For instance, you may want to be more lenient with your attendance during flu season as people are out for their own illness or their dependent's illness.

Be Medically Aware Remember, we are not medical professionals (at least most of us)! We cannot diagnose someone or determine when they are capable of returning to the workplace. Communicate government guidelines in the hopes that employees will see that the guidelines are in the best interest of themselves and the company. Also, consider making reasonable modifications to the requirement for a physician's note to be extended in order to support the healthcare facilities that are already overloaded with patients. For instance, if your policy normally requires a physician's note after three days of absence due to an illness, consider extending that time period to five days.

Focus On Prevention Ensure employees that their jobs are not in jeopardy if they stay home. A few lost days from one employee definitely beats 10 employees being infected! Consider providing hand sanitizers, facial tissue and even masks if necessary. Provide means for employees to teleconference or video conference for meetings in order to avoid the face-to-face contact where risk to exposure is increased.

Document Do you think, as a Human Resources professional I could get through an entire article without talking about documentation? No way! Just as in other situations, be prepared to thoroughly document any instances that you handle that fall outside of the norm. There may be legitimate business reasons to deviate from your usual practice; however, you do want to make sure that in the future if questioned on that decision you would be able to clearly point back to the documentation of the issue.

As always, when these situations arise, feel free to contact any of our HR Consultants to assist you.

Minnesota Black Chamber of Commerce Names EMPO CORP BUSINESS OF THE YEAR

EMPO Corporation CEO and President Alan Reid stated, "I am truly humbled and honored to receive this award. Like MBCC, EMPO Corporation believes we have a responsibility to help better our community. We truly look forward to supporting MBCC's efforts within Minnesota."

The Minnesota Black Chamber of Commerce honored EMPO at its annual Umoja (Unity) Awards Ceremony on Friday, November 6 at the Radisson Hotel in downtown Minneapolis. Each year, the awards ceremony and dinner recognizes outstanding business achievements of the African American community and those working as advocates of the business community.

The MBCC is a 501(c)(3) nonprofit established in 2005 affiliated with the National Black Chamber of Commerce. It is a vibrant business association representing the African American business community. The vision of the chamber is to promote and improve the general welfare, prosperity, and inter-connectedness of the community of African descent. The MBCC serves as a clearing house for business information and opportunity, as a business advocate, and as a referral and development resource.

For more information on the MBCC visit www.minnesotabcc.org.



Minnesota Safety Grant Program

James Browning, Safety Consultant & Trainer

As our safety consultants perform annual safety inspections and/or hazard analysis at client facilities, the consultant may make recommendations on adding, replacing or purchasing safety equipment to assist the client in being compliant with OSHA regulations and standards, in addition to providing their employees with a safe and healthy work environment.

Good news! There's a funding assistance program available so that our clients may not have to bear the complete expense(s) associated with prospectively improving the health and safety of their employees and their work environment. The name of the program is the Minnesota Safety Grant Program. There is a required approval process that must first take place; EMPO can help with this. If approved, the client will be required to initially make all necessary payments. Once the equipment and/or services are completed and paid for in full, the client will receive up to a 50% dollar-for-dollar match—up to \$10,000 maximum in state funding assistance. For example, if your organization purchases a \$23,500 material handling device, Minnesota Safety Grant funding will cover up to \$10,000 towards your \$23,500 purchase.

Recently EMPO Corporation was approved for funding assistance regarding the purchase of an Automated External Defibrillator (AED) for the health and safety of EMPO employees who work in our main office. EMPO ultimately bore only 50% of the overall expenses associated with purchasing the AED, its accessories, and on-going training materials. EMPO has also successfully assisted several of our clients in receiving significant funding from this program.

Our safety consultants can assist your organization with the comprehensive submission and approval process for funding assistance. If interested, please call James Browning at 612 285-6215 to learn more about this special opportunity.



Genetic Information Non-Discrimination Act

Scott Andreassen, Director of HR Services

What is the Genetic Information Non-Discrimination Act (GINA)? GINA was signed into law on May 21, 2008, and was allowed a very lengthy eighteen months before it is to become effective; that time is now approaching. The portions that affect employers become effective on November 21, 2009 (prohibition against making an adverse employment decision) and on January 1, 2010 (prohibition on insurance companies from discrimination through reduced coverage, refusal of coverage, or increased group or individual pricing). The law protects an employee with an existing or known condition due to genetics and an employee with simply a predisposition to certain diseases based on his or her genetic makeup. While GINA applies to an employer with fifteen or more employees, its provisions should make a smaller employer take notice as well.

What does this mean to me? Your initial reaction might be ‘so what—I don’t care about an employee’s genetic makeup’ and in almost all cases this would be true. The real concern is that an employer may make an adverse employment decision or that an insurance company may deny coverage or increase pricing because of an employee’s genetic makeup and predisposition (risk) to possibly carry a certain disease. So while you are unlikely to care or even ask about an applicant’s or employee’s genetic makeup, you need to be aware of GINA’s prohibition against making such inquiries or acting on information obtained; you also need to be aware that an individual who perceives that he/she has been a victim of genetic discrimination can, as of November 21, 2009, bring suit against you in court.

While most readers of this article are completely out of the health care picture (you are not providing health care to your employees directly), you should know that GINA does not prohibit a health care provider from asking a patient to undergo genetic testing; if an employee claims that this was illegal, you have to remind the employee that anything done by a medical provider falls outside the employment relationship, and he or she would need to take that concern up with the provider.

What should I do? As with many other laws, a poster is required to be displayed along with your other employment law posters. There are two different versions of the poster attached to this newsletter article, and either could be displayed immediately; you should only choose one of the two poster attachments, not both.

- The first poster choice is a supplement to the existing poster (dated August, 2008); you would simply hang the supplement near the existing EEO poster.
- The second poster choice is a replacement poster, and would either cover or replace the existing poster regardless of the date it was issued (this is the option we chose at EMPO). This replacement poster comes in two parts—the first page is required to be posted by all employers; the second page is required to be posted by those employers who receive federal government contract money, either directly or indirectly as a subcontractor.
- Please note that if you do not have an EEO poster dated August, 2008, your other posters may be out of compliance—please notify your HR Consultant immediately if this is the case.

Be careful with the information that you collect when conducting pre-employment physicals or on an application for insurance. Employers are barred from both collecting or using an employee’s genetic information. Examples would include collecting data on family history during insurance underwriting as well as for any other purpose, such as for use in a wellness program (under most circumstances).

Consider any employment actions that you might take carefully in connection with this law. An adverse or discriminatory employment decision can include one made against an applicant (failure to hire), or one made against a current employee (wage, promotion/demotion, conditions or privileges of employment, disciplinary action, and termination); the applicant or employee could later claim that you made that decision based on his or her genetic information.

Genetic Information Non-Discrimination Act (Cont)

I'm sure that you have heard all the things you should do when interviewing—don't ask questions about marital status, age, etc. You probably know to steer the conversation away from these subjects quickly when an applicant brings them up during the 'tell me about yourself' portion of the interview. Now you can add genetic information to that list. As my kids would say, "WTMI" (way too much information). For example, you should not ask, or allow an applicant to go into detail about family history—even the simple 'where is your family from' could lead to a charge that you collected information that could allow you to make an assumption about genetic makeup on that applicant or employee.

Information that you might obtain through the course of a conversation—such as when an employee asks you for bereavement leave to attend the funeral of an uncle who just died of cancer—is genetic information within the GINA law. When you obtain information of this type, you should make sure that you do not retain it in your records; in this example, you would simply mark your attendance log as bereavement leave for the funeral of the employee's uncle, and do not mention the cause of death in your records.

Consider auditing your employee's medical file to ensure that no information that asks about heredity or a family history of disease is present in these files. If you do find this information, then make sure that your insurance company has a copy of the item in question, and then destroy it at your end; caution—make sure that if you do send the information to your insurance company that you mark it as previously submitted so changes are not made to your employees' coverage because of an old form with outdated employee instructions. Purging your files of paperwork containing genetic or family history information is the safest solution; however, if you choose not to perform such an audit, it is mandatory (not just a good practice) that you retain your medical files separately from your employee files.

Be aware that the definition of 'employee' as defined by the GINA law includes a current employee, former employee, and previous job applicants; as a result, your review of employee files should not stop at just your current employees, but should include your applicant files and former employee files as well. Your HR Consultant can assist you with records retention requirements at your request.

The bottom line. It really all boils down to good HR practices. If the information that you have at hand does not relate to how an applicant or employee can perform his or her job, then don't consider it when making your decision—this considers all the information you have in your possession, not just the information that you have actively sought to collect.

Wellness programs are increasingly popular—if you have one in place, review all the documentation used in the process to ensure that you as the employer do not ask for or otherwise collect the genetic information. If your forms are not compliant, then change them (don't just cross off the questions you can no longer ask). If the wellness program is strictly voluntary, and is between the employee and his or her physician, with no reporting back to the employer that would include genetic information, then the physician may discuss genetic history and predisposition with the employee without fear of breaking the GINA law.

Use one of the two poster attachments to either supplement or replace your current EEO poster. Remember that we keep our clients up-to-date on the basic state and federal poster requirements, so don't give in to the multiple solicitations you will receive to buy an expensive poster set.

As always, if you have questions on this or any other employee issue, please contact your HR Consultant.



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<http://www.facebook.com/pages/Minneapolis-MN/EMPO-Corporation/316600230202?ref=ts>



2010 Annual Benefits Enrollment Updates

Jacqueline Bowker, Senior Benefits Specialist

It's hard to believe another year has flown by, and here we are preparing for Annual Enrollment 2010!

As part of our commitment to provide innovative insurance solutions, EMPO Corporation is excited to announce its new partnership with Lincoln Financial Group. Lincoln Financial Group's portfolio includes competitive Life, STD, LTD, and Dental insurance plans along with other value-added services such as Travel Connect and Lincoln DentalConnect. To facilitate the transition, all Assurant plan participants will be automatically transferred into the equivalent Lincoln Financial Group plan. New plan descriptions, premium rates, and enrollment/change forms will be included in the annual enrollment packets.

Electronic annual enrollment packets will be emailed to employers between November 16 and November 20. Please forward the annual enrollment packets to your staff or print the information as necessary. Annual enrollment is scheduled to begin November 20 and end December 4; the plan year begins 1/1/2010 and ends 12/31/2010. EMPO will insert paycheck stuffers during the weeks of November 16 through November 30 reminding employees to review their annual enrollment materials and to return forms by December 4.

During annual enrollment, employees will have the opportunity to add, drop, or change flexible spending account elections, vision, legal services, and medical and dental benefits. If employees do not make any changes to their existing benefits, they will continue uninterrupted in 2010. The only exception is the flexible spending account(s). Employees are required to complete a 2010 enrollment form for eflex flexible spending accounts: Health, Dependent Care, Individual Premium and/or Transportation Accounts. The 2009 flexible spending accounts cannot rollover automatically into the new year.

EMPO Corporation's goal is to ensure Annual Enrollment 2010 is simple, efficient and successful. If you have any questions or concerns about annual enrollment or would like additional information about how Lincoln Financial Group plans can be a valuable addition to your employee benefits collection, please contact your Benefits Specialist.

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Holiday Parties: It's Good To Have Them, but... Employers Should Proceed With Caution

Carol E. Gilson, VP of HR & Client Services

This is the time of year for many employers to plan annual, year-end holiday celebrations. While these parties are often a much appreciated tradition, there are a number of legal and human relations issues that should be considered when planning holiday festivities.

The following are some suggestions on how to minimize the risk of liability during company-sponsored holiday parties:

Where Should the Party Be Held?

- Hold the party off work premises in a club or restaurant. If an employer wants to do the most to avoid potential liability and to uphold its work rules—particularly if the employer is going to serve alcohol—then it's preferable not to hold the party on the company's premises but at some commercial establishment.

When Should the Party Be Held?

- Hold the party on a weeknight. If alcohol is going to be served, it might be better to hold the party on a weeknight because people are less likely to consume excessive amounts of alcohol.

Who Should Be Invited?

- Clarify who is invited. To avoid confusion, "gatecrashers" and other complications, clearly make known to employees who is invited. As part of the invitation, consider allowing employees to invite their spouses or dates.
- Make attendance voluntary. If the employer requires attendance, holds the party on company property, or pays employees for their attendance, there is a greater chance for legal liability to result should some type of injury result from the function.

What Should the Party Consist Of?

- If alcohol is served, caution employees to be responsible. Also, consider:
 - » Hiring a professional bartender who will serve beverages appropriately
 - » Having employees pay for any alcohol they consume
 - » Serving alcohol only during designated periods of the event
 - » Using some type of drink ticket mechanism whereby employees are issued one or two drink tickets
 - » Having plenty of nonalcoholic beverages, food and snacks available
 - » Discouraging B.Y.O.B. activity
 - » Providing backup transportation. The employer should assist in arranging backup transportation so that intoxicated people are not allowed to drive home
- Entertainment should appeal to a broad segment of the workforce and, at a minimum, should not be offensive to any minority or ethnic group involved in the party.
- Avoid conducting company business at the party—even handing out gifts or company bonus checks or presenting speeches by top management could be interpreted as company business.

How Should the Party Be Planned and Monitored?

- Have the party planned and managed by a joint effort of management and some informal grouping of responsible employees.
- Make sure that certain supervisors or managers are assigned to monitor behavior and stop any horseplay in its tracks.

Other

- Other issues employers should consider when planning holiday parties:
 - » Religious accommodation
 - » Accessibility under the ADA
 - » Workers' Compensation. In theory there might be some type of Workers' Compensation liability at a holiday party in which employees are either required to attend or where the party is held on the employer's premises.
- Some organizations have given up employee holiday functions in favor of a party for the children and grandchildren of employees. Other employers offer a half-day off with pay in lieu of an expensive, and possibly unruly, holiday party.

The above is not intended to be an all-inclusive list, but rather some suggestions to limit employer liability. If you have specific questions, please contact your Human Resources Consultant at 612-285-8707.

Minnesota Department Of Revenue Ends Minnesota's Personal Income Tax Reciprocity Program With Wisconsin

Scott Ehlers, Payroll Specialist
Jodi Goda, VP of Operations

The Minnesota Department of Revenue has issued a news release announcing an end to the state's long-time personal income tax reciprocity program with Wisconsin, effective for income earned beginning January 1, 2010 (for all payments dated on or after January 1, 2010).

Under the reciprocity agreement, Minnesota taxpayers who completed the proper form and who worked in Wisconsin were only required to file a Minnesota state income tax return. Minnesota was reimbursed by Wisconsin for the income tax collected from Minnesota workers. The two states could not agree on a timely reimbursement schedule, and as a result, Minnesota residents who meet the filing requirements and work in Wisconsin will be required to file returns in both states next year.

According to the department, no Minnesota resident will pay more in Minnesota tax, but some who work in Wisconsin will pay more Wisconsin taxes.

We will be in contact with all employees claiming reciprocity and inform them of this change. Any employee who wishes to change his or her withholding because of the change of the state in which he or she is taxed may file a new Form W-4 if he or she desires.

If you would like further information, please use the following link or you can call your Payroll Specialist.

http://www.taxes.state.mn.us/taxes/other_supporting_content/wi_reciprocity.shtml#P93_5770

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If you have ideas for topics or information that you would like to see included in a future newsletter, please e-mail Kate Douma at kdouma@empocorp.com.