



LeadingAge Ohio Human Resources Conference
April 18, 2019
“We Know What Keeps You Up At Night!”

Member Recap White Paper

Recruiting and retaining a quality workforce are efforts in which every LeadingAge Ohio member engages. Policies and procedures for ensuring that the management of precious workforce resources is as effective as possible was the subject of the April 2019 Human Resources Conference. This one-day deep dive into these topics provided a rich day of dialogue among the experts who presented and the conference attendees.

Attendees spoke:

“Great variety of sessions and top quality presenters!”

“Hilarious and engaging! Very Informative!”

“Everything was very helpful!”

So we wanted to share as much as we could with all of you.

This white paper is intended to provide conference highlights as well as key contact information should a reader desire additional information.

Session 1: Defending Through Documentation

Presenter: Jan Hensel, *Dinsmore & Shohl, LLP*

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Jan Hensel discussed how important personnel documentation is at each stage of the employment relationship. Although the focus of the presentation was defending through documentation, during the employment relationship, she emphasized how personnel file documents are important tools for educating employees, managing employees, and giving employees the tools to improve and become successful contributors to the organization.

To accomplish these objectives, disciplinary documents should be specific, factual and accurate and identify the steps necessary for the employee to improve. Employers should make sure to follow up on any disciplinary action and make the necessary tools for improvement available to the employee. Likewise, performance evaluations should be thorough and honest. Managers should not shy away from having real dialogue during performance reviews, addressing not only about what the employee is doing well, but also what the employees should do to improve. Goal setting should be an important part of the evaluation process.

In the presentation, Ms. Hensel walked through the employment process from beginning to end, starting with applications and ending with severance agreements. She emphasized the importance of accurate, thorough and up-to-date job descriptions, and consistent, objective, detailed and timely disciplinary documents. The presentation ended with discussion of a risk assessment that employers should evaluate before terminating any employee, with, with an explanation of how strong personnel documents can help employers in minimizing that risk. Thorough, accurate, and thoughtful personnel file documents provide the employer with tools to manage the employment relationship from start to finish.

Session 2: Medical Marijuana: What Employers Need to Know

Presenter: Marie-Joëlle Khouzam, *Bricker & Eckler*

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Joëlle Khouzam opened her session with general information about marijuana as a federally controlled substance, and described how marijuana laws have grown like a weed around the country. As someone who testified before the Ohio General Assembly to urge it to give thought to the many workplace considerations of marijuana legalization, Joëlle was able to share first-hand insights on how Ohio ended up with the law that it did.

Ms. Khouzam went on to describe how the compromise measure, designed to bridge the ideological divide between those who favor use for health-related purposes and those who believe more research is needed, is far from perfect, and creates many implementation challenges, including for Ohio's employers. Joëlle provided insight on many aspects of Ohio's law, its commercial impact as an industry, and several of the workplace issues that deserve serious planning.

Ms. Khouzam's key takeaways for HR professionals were:

1. Know the difference between being under the influence (i.e., testing positive) and being impaired; drug tests do not measure impairment
2. Understand that Ohio's statute, which grants Ohio employers much leeway in dealing with employees who use medical marijuana, does not mean that Ohio employers can disregard obligations they may have under applicable disability discrimination laws

3. Review your policies to reflect what your organization is or isn't willing to accept
4. Clearly communicate your policies to employees, and invest time and resources to train your management/supervisory personnel on how to implement your policy
5. Be wary of using a one-size-fits-all handbook policy if your company does business in multiple states, as no two states' marijuana laws are alike
6. Investigate and take advantage of workplace safety programs that may help you save money by promoting a drug-free workplace
7. Depending on the type of facility you run, help your operations colleagues develop policies regarding resident or patient use of such products and handling

Session 3: Fair Labor Standards Act (FLSA): Addressing Current Issues for Employers

Presenter: Jason Hilliard, *Dinsmore & Shohl, LLP*

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Mr. Hilliard's presentation discussed the various legal issues and pitfalls employers face when dealing with wage and hour issues related to the Fair Labor Standards Act (FLSA). This included a discussion about the expense of wage and hour litigation.

Mr. Hilliard highlighted the pitfalls involving misclassification of employees as contractors and off-the-clock work. A key take away from the discussion is the pending proposal by the Department of Labor to increase the minimum salary necessary for an employee to be exempt from overtime, which may be implemented in 2020.

"If you have a contract landscaper who is wearing your organization's shirt/logo and serving your organization with significant regularity of hours, this is likely an employee," Hilliard noted.

He also noted the importance of having policies that make it clear employees are not expected to check cell phones for emails, etc. "This off-the-clock work is extremely hard to control," Hilliard observed, noting that over 80% of people check work emails even on vacation.

Mr. Hilliard pointed out that there is an increasing problem with employees working off the clock based upon their access to company emails on their smartphones. Even if employers don't ask employees to work off the clock, the definition of employment includes "being permitted to work."

To add emphasis to his points, he reported that employers spent more than \$500 million settling wage- and hour-related lawsuits last year.

Session IV: Employer of Choice 2019: Is Your Organization Positioned for this Award?

Presenters: Toni Merleno, *Kendal at Oberlin*; Jim Lay, *J.F. Lay & Associates, LLC*

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Jim Lay described the process of reaching the status of "Employer of Choice", discussing how it is an important strategy for overall operating success, not just for attracting and retaining employees.

"In such an environment, employees are highly engaged and more effective," said Lay. "Residents thrive in an environment of care and support, family members are pleased with the experience of their loved ones and resident attraction is enhanced by referral and reputation."



Mr. Lay went on to describe the 2019 Application Process.

- The application is now available on the LeadingAge Ohio website
- Applications are due by June 3rd
- The application includes 12 category areas (9 are the same as past years)
- Three areas revised since last year's cycle: High Performance Culture/Engaged Workforce, Community Engagement, Leadership Continuity/Stability. The revisions look for applicants to describe systematic approaches for sustainable success in the categories, with an emphasis on the role of senior leaders.

"This is a process that provides applicants with a pathway to achieving 'Employer of Choice' status and the resulting improvements in employee attraction, retention and satisfaction as well as resident satisfaction and improved operational success," finished Lay.

Attendees were then provided both a case study and highlights of the revised standards in this year's programs.

Toni Merleno described how Kendal at Oberlin received a Bronze Level Award when entering LeadingAge Ohio's initial year of Employer of Choice (EOC) Program for the 2017-2018 year. After being somewhat discouraged because they knew they did not qualify for the Silver or Gold Levels they aspired to reach, Kendal decided to participate for the 2018-2019 program year and were pleased to receive the Silver Level Award.

"Completing the EOC application opened a new perspective on our community's focus," noted Merleno. "For example, instead of merely looking at turnover statistics, we now emphasize retention numbers, as well, and the specific areas where improvement can occur."

Ms. Merleno encouraged attendees to 'take the plunge' and apply for the EOC program this year. "I really believe the effort to complete the application will be a worthwhile and informational experience for all LeadingAge Ohio members."

Applications for LeadingAge Ohio's third year of the Employer of Choice program will be due on June 3rd.

Information on LeadingAge Ohio's Employer of Choice is available here:
https://www.leadingageohio.org/aws/LAO/pt/sp/employee_recognition

Session V: LeadingAge Ohio's 2019 Salary/Benefits Survey: Maximizing its Value

Presenter: Brad Webber, L.R. Webber

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100 member organizations participated in the 2019 LeadingAge Ohio Salary/Benefits Survey. L.R. Webber, the LeadingAge Ohio partner compiling this year's survey's responses, provided attendees an overview of the importance of careful analysis of the survey's results.

Participants were told to expect to receive their individual organization's report no later than the week of May 20. For those organizations that did not participate in the survey, the survey results are available for purchase.



Session VI: Alternative Employee Benefit/Healthcare Funding Opportunity

Presenters: Brad Webber & Booker Moore, *L.R. Webber*; Scott Slutz, *United Church Homes*

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Mr. Moore began by discussing the rising costs of health care and work being done at L.R. Webber to offset these costs.

“Health insurance is expensive because health care is expensive,” said Moore. “We are exploring alternative funding options to take advantage of economies of scale when we leverage the large numbers of LeadingAge Ohio members together.”

Mr. Moore and Mr. Webber went on to describe how they are designing solutions where the use of data analytics, consumer options, technology for communication and clinical services for targeted outreach all serve to improve outcomes while creating an environment that promotes the health and well-being of plan participants. They explained that self-funded health plans were reviewed as a core funding option and discussed the safety in aggregation of membership together for better pricing and contractual terms.

The two went on to discuss the need to control one’s own claims data and therefore the ability to make decisions on plan design and employee engagement. An open forum of Q&A between the speakers and the audience provided practical examples of the reasoning behind some of the decisions.

United Church Homes’ HR Executive Scott Slutz gave practical examples of the reasoning behind the decision-making that led United Church Homes to engage in the program.

Session VII: Fostering a Culture of Team Engagement Through Improved Onboarding Practices

Presenter: Jenna Kellerman, *LeadingAge Minnesota*

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LeadingAge Ohio members have access to a LeadingAge Minnesota-created “Onboarding Toolkit”, a free adaptable resource that provides more than 50 different activities, discussion guides, PowerPoint presentations with speakers’ notes, organizational assessments, and more, to develop a custom onboarding experience for staff. The toolkit was developed using quality improvement and performance excellence principles, with the goal of increasing retention through engagement. The tools and resources are organized around five core principles of team member engagement.

These principles include:

1. Welcoming a Team Member to the Organization
2. Introduction to the Organization’s Culture
3. Leveraging an Organization’s Mission, Vision, and Values
4. Career Pathways and Role Specific Challenges
5. Teamwork and Building Relationships in the Workplace

The toolkit is available for LeadingAge Ohio members here:
<https://leadingageohio.org/aws/LAO/pt/sp/toolkits>



Session VIII: Managing Employee Leaves—The Bermuda Triangle of Workers Compensation, ADA, and FMLA

Presenter: Jan Hensel, *Dinsmore & Shohl, LLP*

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In the afternoon, Ms. Hensel provided attendees with an interactive discussion regarding one of the more challenging aspects of personnel management – managing employee leaves. This presentation covered “the Bermuda Triangle” of Workers Compensation, ADA and FMLA.

Ms. Hensel provided attendees with an overview of these key laws, as well as others that can impact an employer’s decision-making process and an employee’s rights in leave situations. Participants were given specific tips regarding how to utilize FMLA certification documents to manage the ever-challenging intermittent leave, such as making sure that certification forms are complete at the commencement of the leave, and obtaining recertification when necessary.

Further information was provided regarding the interplay of the ADA and FMLA, including the expansion of the definition of a disability that arrived with the implementation of the ADAAA in 2009, followed closely by the EEOC’s pronouncement that termination of any employee at the end of any set leave period constitutes a violation of the ADAAA.

As a result, since 2009, the emphasis has shifted from determining whether the employee in fact has a disability, to utilizing the interactive process to determine whether reasonable accommodations can be provided, including providing unpaid leave as a reasonable accommodation. The distinction between the concept of light duty, for Workers Compensation purposes, and reasonable accommodations under the ADA was explored through group discussion and scenario participation. In a lively session, participants drew from their own experiences to discuss a number of real life scenarios.

Session IX: Take the Red Pill—Becoming Conscious of Unconscious Bias

Presenter: Dawn Hays, *Employer’s Resource Association*

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Dawn Hays of the Employer’s Resource Association discussed the common biases that affect people’s perception of reality and the science behind why these biases exist. The group interactively explored the power of paradigms, perceptions and values using a miniature earth exercise and other interactive activities.

The group then identified the impact of unconscious bias in the workplace and the business case for fostering equity and inclusion to drive collaboration. The session concluded with a discussion of strategies to disrupt and reduce unconscious bias, including recognizing trigger reactions, evaluating automatic responses, creating a feedback loop, and increasing communication across cultures. One attendee summed up the presentation succinctly: “She did a great job at opening our eyes to the way we really think!”