

# HR COMPLIANCE LIBRARY

## Ideas & Trends

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### HEALTH

#### Dealing with Ebola: Separating fact from hysteria

For the past several weeks the country has been fascinated with the continuing stories involving the spread of Ebola from Africa to other countries including the United States. As a result there have been a lot of overreactions to the potential continuing spread of Ebola and how individuals can contract this illness. The media has reported incidents where teachers and students across the country have stayed home in response to concern over Ebola. One news story indicated that an elementary school teacher is being paid for leave up to three weeks after parents complained that the teacher had traveled to Dallas where there had been two Ebola cases. In New Jersey, an elementary school reported that two students from Rwanda, a country not hit by Ebola, would stay home for three weeks after parents complained that they may spread the virus.

Questions have been raised on how employers should react to the Ebola medical issue. Clearly, it is good to be concerned and proactive dealing with this issue. However, a knee-jerk reaction to a possible nonexistent issue at your facility could result in getting one sued and may create other legal issues. It is critical that employers approach the Ebola issue as a risk management/safety issue and analyze it as such. It should be noted that while Ebola raises many medical and employment-related questions, the World Health Organization (WHO) and the Centers for Disease Control (CDC) have over 30 years of experience and in the past have contained many of the Ebola outbreaks occurring throughout the world. While the CDC reaction and their initial approaches raised questions by many in both the media and the general public, the information proffered by them about Ebola seems to be accurate. This is particularly true with regard to the expected early stages, transmission opportunities being limited, that it is not airborne and, that the greatest danger is to healthcare workers. It should also be noted that many of the local and state regulators as well as other federal government regulators are following the CDC's lead.

#### OSHA guidance

OSHA has released new guidance on how employers and employees in non-healthcare and non-laboratory workplaces should clean and decontaminate for Ebola on workplace surfaces. Employers are responsible for making sure that workers are protected from exposure to Ebola and that they are also not exposed to harmful levels of chemicals used for cleaning and disinfection. This is according to an OSHA fact sheet.

In addition, OSHA has a dedicated webpage for the Ebola virus, which explains that the U.S. Centers for Disease Control and Prevention has labeled the deadly virus a Category A select agent. This category includes high-priority agents that pose a risk to national security because they can be easily disseminated or transmitted from person to person; result in high mortality rates and potentially have a major public health

impact; could cause public panic and social disruption; and require special action to ensure public health preparedness.

**Applicable standards.** OSHA has said that its Bloodborne Pathogens standard covers exposure to the Ebola virus, calling it one of a subset of contact-transmissible diseases to which the Bloodborne Pathogens standard applies, as it is transmitted by blood or other potentially infectious materials as defined in the standard.

However, OSHA also stated that in situations where workers may be exposed to bioaerosols containing Ebola virus, employers must also follow agency's Respiratory Protection standard. The agency also pointed to other elements of infection control for Ebola that may apply, including a number of precautions for contact-transmissible diseases that fall under its Protective Equipment standard and the General Duty Clause of the OSHA Act, which requires employers to keep their workplace free of recognized hazards that can cause death or serious harm to workers.

OSHA noted that there are other standards that employers may be required to follow in order to protect workers from exposure to chemicals used for cleaning and disinfection. Those potentially applicable standards, as well as additional rules and directives that may apply, are available on the agency's website.

### Managing Ebola concerns in the workplace

Unfortunately, the public health guidance provided does not clearly apply to any specific employer scenario, and as a result employers must extrapolate disease-driven guidance to heavily regulated employment scenarios. It should be noted that neither the CDC guidance nor the EEOC application takes the "better safe than sorry" approach. However, a "direct threat" under the Americans with Disabilities Act (ADA) is still going to be difficult to prove when it comes to Ebola. Unfortunately, the employer, public and customer concerns seem not to have an impact on many of the government regulators.

So what do employers do when dealing with evolving Ebola concerns by employees? Obviously, all employers must objec-

tively weigh all the risks associated with Ebola as including but not limited to the dollar and human cost associated with dealing with this illness. It is important that employers continue to monitor the evolution of the public health guidance because continual changes have been seen over the past several weeks. The WHO and CDC guidance has been changing to the current situations and most likely will continue to evolve as more information and experience on this disease becomes available. Of course, it is critical for each employer to determine your specific operation or faculty's disease exposure.

At the same time you must determine what applicable legal concerns may be present in dealing with employees who may have some form of exposure to Ebola. These include, but are not limited to:

- ADA confidentiality and common law privacy issues;
- defamation claims;
- ADA and State protections of an employee with a disability or those wrongly perceived to have a disability condition;
- race or national origin discrimination; and
- any type of collective bargaining contracts that may legally impact the actions your company may take.

**Sending an employee home.** May an ADA-covered employer send employees home if they display influenza like symptoms during a pandemic involving Ebola? The CDC has stated that if an employee should become ill with symptoms of influenza-like illness at work during a pandemic that employee should leave the workplace. Advising such employees is not a disability-related action if the illness is linked to the seasonal influenza or something like the 2009 H1N1 pandemic virus. Also the action of sending an employee home would be permitted under the ADA if the illness were serious enough to pose a direct threat.

**Requesting information.** Another issue that has risen is how much information an employer may request from an employee who reported feeling ill at work or who calls in sick who indicates a potential exposure to Ebola. ADA does allow employers to ask such employees if they are experiencing influenza-like symptoms but an employer must maintain all information about the employee's illness as confidential medical records in

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compliance with the ADA. In addition, when an employee returns from travel in a pandemic area, the employer is not required to wait until the employee develops influenza symptoms to ask questions about exposure to the pandemic during the trip. These would not be disability-related inquiries.

**Employee complaints.** Finally it should be realized that under OSHA's Section 11C whistleblower provisions, employers are prohibited from issuing adverse employment actions against an employee found to be complaining about health concerns even if the complaint is unfounded. However, if the employee is refusing to work based on a safety or health concern, refusal must be objectively reasonable. In addition, if an employee complains about a safety or health concern or refuses work, it may be protected as protected-concerted activity under the National Labor Relations Act.

**Employee travel.** How safe is it to travel during the outbreak and what travel precautions should employees take? It is important that employees on travel status always be vigilante in regard to their health and those around them. The risk of infection for travelers is very low since person-to-person transmission results from direct contact with the body fluids and is unlikely to occur while traveling. Also the risk of a businessman/woman becoming infected with Ebola during their visit to an infected area and developing the disease after returning is extremely low.

Of course where employees on travel come in direct physical contact with a person who is ill or has died from Ebola, it is important to notify the public health authorities and engaging in contact tracing to confirm whether or not you have been exposed as well as to prevent the further spread of the disease through monitoring.

### Looking ahead

It is uncertain how long the Ebola outbreak in Africa and its subsequent transmission to other countries including the

U.S. will last. It is also uncertain whether the scope of the Ebola outbreak which has reached pandemic proportions in some West African nations could also reach a pandemic level here in the U.S.

While such a scenario in the U.S. is very unlikely, employers should attempt to prepare to be able to maintain their business operations no matter what occurs in the future. Those preparations could include:

1. developing an emergency response plan;
2. evaluating exposure area and other factors which may affect the organization's ability to continue operations, such as, the effects on employees when their children are sent home due to school closing;
3. analyzing business activities and developing guidelines for travel to meetings inside and outside of the U.S.;
4. reviewing safety policies and practices;
5. engaging an employee assistance program;
6. preparing for how to handle an employee who refuses to travel or come to work;
7. developing a relationship with Occupational healthcare providers; and
8. ensuring that you have contact with your vendors and suppliers to ensure that they will be able to continue supplying services you need to continue operations.

Utilizing these simple steps, employers can be prepared to handle any concerns that may arise as a result of the current Ebola virus situation and be sure to protect themselves from inference with business operations as well as potential legal issues.

**Source:** *Portions of this article were taken from "Dealing With Ebola: Separating Fact From Hysteria," written by Edwin G. Foulke, Jr., a partner in the Atlanta and Washington, D.C. offices of Fisher & Phillips, LLP (www.laborlawyers.com). Reprinted with permission. ■*

## WELLNESS

### Ebola may have the headlines, but don't underestimate flu

With the Ebola virus dominating the headlines, it is easy to forget that flu season is upon us. Though comparing the flu to the Ebola virus is much like comparing apples to oranges, the impact of the flu on the workplace should not be underestimated. The CDC cites that the flu costs the U.S. more than \$87 billion annually and is responsible for the loss of close to 17 million workdays each flu season, amounting to billions lost in office productivity.

Even worse than the threat of lost productivity is the threat of sick employees coming to work ill and spreading the illness to coworkers. This phenomenon, known as presentee-

ism, is engaged in by most employees. According to Staples' fifth annual Flu Season Survey, 60 percent of employees go to work with the flu. Although this is the lowest number since 2011, half of employees still believe they need to "tough it out at work" and another 31 percent think their bosses appreciate the "dedication."

Participating in an interview with Wolters Kluwer Law & Business, Chris Correnti, vice president of Staples Facility Solutions at Staples Advantage, said, "While we are encouraged that for the first time in five years the number of sick employees coming into work has dropped, 60 percent is still

a significant number. There is clearly some work that needs to be done in order to reduce this number to decrease the spread of germs.”

**The 2014 flu season.** Correnti expects the presenteeism rate to drop further in 2014. The Staples survey confirms recent virus outbreaks are affecting behavior. Fifty three percent of employees say they plan to take extra precautions to protect themselves against the flu and other illness this winter. For example, 70 percent of respondents say they are involved with cleaning their workspaces.

Further, Correnti offers the following tips for employers looking to engage employees in keeping the workplace flu free:

1. **Educate employees:** Speak with the janitorial staff to ensure more frequent cleaning of common surfaces. Additionally, talk with the employees about how often they should clean their personal space and how long to stay home when sick.
2. **Provide appropriate flu fighting supplies:** Employers can help employees stay healthy throughout flu season by providing the necessary materials. This provides employers with the opportunity to promote workplace wellness in simple, inexpensive ways, such as providing cleaning supplies so employees can keep their personal workspace clean.
3. **Encourage hand washing:** Proper hand washing etiquette is the most important precaution that many people ignore. The best approach is to help make proper hand washing easy by providing self-foaming soap in bathrooms, touch-free sinks and motion sensor paper towel dispensers.
4. **Offer/encourage a telecommuting program:** Consider implementing a telecommuting program or encourage the use of an existing program. Of the respondents whose company offers a telecommuting option, three-quarters of survey respondents will take advantage of the telecommuting to avoid sickness during flu season.

**Discourage presenteeism.** Even though 88 percent of managers encourage sick employees to stay home, the majority of ill employees do not heed that advice. “It’s important to create a culture of wellness in the office so employees feel comfortable calling in sick and staying home when they’re still contagious,” said Correnti. “It’s crucial to encourage employees to log off and rest. Employers need to encourage employees to take the necessary time to recover when they contract the flu to protect not only themselves, but those around them in the office. For those employees who are feeling well enough to work, but still are contagious, telecommuting is a great way to solve the issue. This way, people can get work done without spreading germs to the rest of the office.” ■

## HR QUIZ

### Are wellness program incentives considered in determining a health plan’s minimum value?

**Q Issue:** *Your company offers an eligible employer-sponsored plan that reduces the deductible by \$300 for employees who do not use tobacco products or who complete a smoking cessation course. The deductible is reduced by \$200 if an employee completes cholesterol screening within the first six months of the plan year. Bob does not use tobacco and his deductible is \$3,700. Carla uses tobacco and her deductible is \$4,000. For purposes of determining minimum value (MV) under the Patient Protection and Affordable Care Act (ACA), how are these wellness incentives treated?*

**A Answer:** Individuals generally may not receive a premium tax credit if they are eligible for affordable coverage under an eligible employer-sponsored plan that provides MV. An applicable large employer may be liable for an assessable payment under Internal Revenue Code Sec. 4980H if a full-time employee receives a premium tax credit. For employer-sponsored plans to provide MV, the percentage of total allowed

costs of benefits provided to an employee (MV percentage) must be at least 60 percent.

Proposed regulations provide that nondiscriminatory wellness program incentives offered by an eligible employer-sponsored plan that affect deductibles, copayments, or other cost-sharing are treated as earned in determining the plan’s MV percentage to the extent the incentives relate to tobacco use. Wellness program incentives that do not relate to tobacco use are treated as not earned.

Thus, only the incentives related to tobacco use are considered in determining the plan’s MV percentage. Carla is treated as having earned the \$300 incentive for attending a smoking cessation course. Thus, the deductible for determining the MV percentage for both Bob and Carla is \$3,700. The \$200 incentive for completing cholesterol screening is disregarded.

**Source:** *IRS Proposed Reg. Sec. 1.36B-6(c)(2)(ii).*

## TERMINATION PRACTICES

### Termination letters can come back to haunt employers

Being fired is bad enough. What's worse from the point of view of many courts? Worse is being told, in the termination letter, that you should find a less stressful job due to your heart condition. Or that your job functions were being transferred out of state, only to find out later that this was not the case. Or that the employer could not accommodate your schedule request even though your supervisor had previously approved it. In each of these real-life scenarios, the termination letters provided evidence that the employers engaged in unlawful discrimination or retaliation.

**Get well now.** For example, one employee, who was fired when his recovery from triple bypass heart surgery took "too long," survived summary judgment on his claims of discrimination based on actual and perceived disability. The employer told its disability insurer it would accommodate the employee, who sent emails indicating his intent to return, but the employer then hired two replacements without physical limitations and sent the employee a termination letter that referred to his heart condition and the need for him to find a less stressful job. The federal district court in Louisiana found that the letter suggested that the employer regarded him as disabled and terminated him for that reason (*Thomas v Hill*).

**Silence is not golden.** Some attorneys might suggest that cases like this are a good reason to remain silent in the termination letter as to specific reasons for the discharge, but when it comes to questions of intent in discrimination and retaliation cases, silence is not golden. In one case, an employee who had threatened to sue the employer in the past was fired after violating a policy on computer use at work and after requesting an accommodation for his leg injury. The termination letter was silent as to the actual reason for his discharge, merely stating that the company was an at-will employer. To a federal district court in Arizona, this was inconsistent with termination letters the employer provided to other employees because their letters specified the reasons for their terminations. This was enough to raise a triable issue of fact on the employee's disability discrimination claims (*Maxwell v Verde Valley Ambulance Co, Inc*).

In another case, a hospital defended its decision to fire an employee with severe depression and anxiety by citing years of "insubordinate and combative behavior," but it never mentioned such conduct in her suspension memo or termination letter. A district court in Pennsylvania found a reasonable basis for

concluding that her discharge, ostensibly for turning in a requested email an hour late, was pretext for discrimination, given that none of the incidents described by the employer were mentioned in the letter, the employee's previous discipline did not list discharge as the next step, and she had good reviews (*Franzi v UPMC Presbyterian Shadyside*).

#### Writing the termination letter

Given the importance of wording a termination letter just right and handling the termination process well, employers should take steps to avoid common pitfalls. Suggestions follow.

**Verify the basis for discharge.** Before writing the termination letter, review records, interview supervisors, or take other measures to confirm the factual basis for the discharge. For example, if an employee approved for FMLA leave was later fired for excessive absences, make sure none of the absences underlying the discharge were FMLA-qualifying. In another example, a termination letter stated that an accounts payable position was eliminated due to a new electronic record system, but other evidence suggested to a district court in Tennessee that the job was not actually eliminated by the time the employee would have returned from maternity leave, so she advanced her retaliatory discharge and FMLA interference claims (*Hawkins v The Center for Spinal Surgery*). In a case out of Minnesota, a federal court denied summary judgment on a race discrimination claim based in part on the fact that a termination letter stated the employer was unable to accommodate an employee's scheduling request, even though her supervisor had previously approved it. The contradiction suggested pretext (*Kennedy v Heritage of Edina, Inc*).

**Be consistent.** Make sure the decision is consistent with any disciplinary policy. And even if there is no doubt that an employee violated a policy, ensure that the level of discipline is consistent with that imposed against others who engaged in similar conduct. For example, in an Ohio Court of Appeals case, an employee who was fired for sending sexually explicit emails in violation of an employer's policy (according to the termination letter) could proceed to trial on his age discrimination claim because the company did not fire younger employees for substantially similar conduct (*Bowditch v Mettler Toledo International, Inc*).

**Maintain a professional tone.** The termination letter should be typed and should be professional and objec-

tive in tone. It should be dated and have a place for the employee's signature.

**Don't mention protected characteristics.** Do not mention health, age, sex, pregnancy, disability, or other protected characteristics in the termination letter or meeting. Also, avoid telling an employee to "look on the bright side." For example, stating "This is a great time to retire anyway" could suggest that age was behind the discharge. Telling someone who took FMLA leave that "Now you can spend more time with your ailing wife" might suggest retaliation for that leave. And as mentioned with respect to the *Thomas v Hill* case, don't suggest the employee would prefer a different job anyway due to his heart condition (or any disability).

**Discuss the termination face-to-face.** If possible, meet with the employee and deliver the letter to help avoid misunderstandings and address concerns that any individual might have upon being fired. The letter could provide a good outline for what should be discussed in the termination meeting, and following the letter could help the HR rep or other person conducting the meeting maintain a professional demeanor.

**Write for a larger audience.** You are delivering the letter to the employee – but how would the letter be read by the EEOC, a Facebook audience, or a jury? Provide enough background facts to keep things in context. If the employee was fired for violating a policy, or for failing to meet performance or behavioral standards, say so. Don't leave it to a potential jury to fill in the blanks.

**Be consistent after the fact.** The reasons in the termination letter should also be the reasons provided if the decision is challenged later (perhaps in an EEOC charge). While it is okay to provide additional details on policy violations or other reasons outlined in a termination letter, avoid adding entirely new bases for the discharge that were not mentioned in the letter. Also, if you provide letters of recommendation, avoid saying anything that could contradict your stated reasons for terminating the employee. That could be used against you in court.

**Avoid joint employer issues.** Be mindful of the letterhead used. If an employee for company A was terminated on company B's letterhead (or by company B's HR personnel), that could suggest that both A and B exercised control over the termination decision and both could be liable as employers. Also, don't use the terms "we" or "us" when referring to the employer. This could also become

the basis for arguments that related companies received proper notice of EEOC charges or were joint employers for purposes of liability. For example, a federal court in Illinois refused to dismiss Title VII claims against three entities that arguably received notice of EEOC charges served on a CEO, as evidenced by shared offices, equipment, and owners, as well as by the fact that the CEO responded to an EEOC charge by commenting on when the employee "came to us" and stating "we" have always been an equal opportunity employer. Such language could also be problematic in termination letters (*Jowers v Village Green Apartments, LLC*).

**Explain the employee's rights and responsibilities.** If you offer a severance package, the letter should reference the package. State that all property of the employer should be returned and perhaps provide a separate checklist of items, such as cell phones, computers, or keys. The employee should also be reminded of other contractual obligations (e.g., noncompete or nondisclosure agreements). In addition, provide information on available benefits, including COBRA documentation as appropriate. In one recent case, a federal court in Nevada ordered an employer to pay the maximum statutory daily penalty where the employee received an attachment to her termination letter explaining COBRA but was never provided an election form and was merely told that it would be sent separately (*Honey v Dignity Health*).

## Final thoughts

The importance of a properly worded termination letter cannot be stressed enough. Mainly, it can provide evidence of an employer's legitimate reason for taking the action it did. But it can also provide a roadmap for both employer and employee — guiding the employer through the termination meeting and helping maintain a professional tone, while also providing the employee with information underlying the decision and information on the next steps he or she needs to take. The termination letter also serves to document the employment action and, if EEOC charges are subsequently filed, can provide a ready response to any ensuing inquiry. With that in mind, be sure to have the employee sign the termination letter to acknowledge receipt. As with any document as important as this, having an attorney review the termination letter before delivering it is a good idea.

**Source:** "Termination letters can come back to haunt employers," written by Lorene D. Park, J.D., was originally published in the September 18, 2014 edition of *Employment Law Daily*, a Wolters Kluwer Law & Business publication. ■

## COACHING

### Expert discusses HR's involvement in coaching practices

As an industry trend, corporate HR executives have become increasingly familiar with coaching over the past decade, many becoming certified coaches themselves. This is according to John Hoover, PhD, senior vice president at Partners International in New York City. In an interview with Wolters Kluwer Law & Business, Hoover said, "HR is all about the care and feeding of human beings at work, so it's natural for development of the company's top-tier and emerging talent to fall into HR's court."

Hoover explained why it is so important for HR executives to be involved as well. "HR understands the dynamic alignment between individual performance and organizational performance, individual strategy and corporate strategy, individual value added and enterprise value propositions," explained Hoover. "When there is a disconnect between the cultural orientation of the individual and the prevailing culture of the organization, friction occurs and noise is created in the system. HR is charged with maximizing value from the organization's talent resources, anything that disrupts that or causes bifurcation between colleagues who need to work together effectively will cause HR to seek effective solutions. Coaching is one such solution."

**Training and certification.** Although a person can practice psychology without training, no one would actually recommend that they do so. That is precisely the point Hoover made when explaining the value in training and/or certification for HR executives looking to become more involved in the organization's training practices. "HR folks who coach, like anyone else, would be far more skilled and effective if they are trained and certified," he said. "Training, certification, and supervision bring consistency and rigor to the craft of coaching, which is what everyone should aspire to."

**Choosing a coach.** According to Hoover, there are good reasons and drawbacks to consider hiring a coach from outside of the organization and the same for choosing from within. "Price favors using internal people while experience, training, and skill often favor external practitioners," he said. "Knowledge of the organization is usually greater among internal coaches, especially HR people. Fresh, objective perspective favors external coaches."

Speaking to the question of whether coaches should come from within or outside of an organization, Hoover continued, "When the coach and the coaching client are both cashing a paycheck from the same employer and contributing to the same 401k, confidentiality is never truly complete. There is also the fact that an internal coach will be inevitably tainted by swimming in the same cultural waters as the

coaching client. An external coach brings a fresher perspective that is not as subject to internal political influences. On its face, mentoring is a more appropriate activity for internal people than coaching. Mentoring is an exchange of wisdom, experience, and knowledge (organizational and vocational) gained from the experience and learning a mentor has that the mentee does not. Well-trained and effective coaches don't need more expertise and experience in a given subject than their clients. A skilled coach draws out the coaching client's best thinking, reasoning, and problem solving with powerful questions, application of coaching techniques, and reflective practice. Internal practitioners don't often have as much experience, training, or coaching supervision as external practitioners; especially those who are part of a coaching provider network or organization."

**Use assessments.** Hoover stressed the importance of coaches doing their work through an organizational lens. "The individual should never be blind to the organization and the organization should never be blind to the individual," he said. "Data from 360 assessments and coaching conversations should be captured in engagement reports and aggregated in organizational analysis reports that don't compromise confidentiality — yet identify trends and patterns in organizational leadership that HR, organizational designers, and Talent Strategy planners need to know."

**Managing the coaching function.** Whether HR manages the coaching function in an organization or another department is charged with the responsibility, the following tips apply across the board. Hoover's organization, Partners International, has developed a course called "Managing the Coaching Function in an Organization." In the course, the following is emphasized:

1. Coaches should be vetted to ensure they have been adequately trained and credentialed to provide services commensurate with the fees they charge.
2. Coaches must be vetted to demonstrate that they will treat the individual and the organization as co-clients.
3. Coaches must be vetted to ensure they understand your organizational culture and will be effective aligning the individual receiving the coaching to the organization's overarching strategic agenda.
4. The coaches need to be vetted and supervised to ensure they provide the best possible individual coaching experience in the context of the organization.
5. Organizations need to have a well-designed coaching and reporting process that involve and engage all critical stakeholders to ensure consistency in the coaching experience across the enterprise and that the voice of the organization is never lost — all the while allowing for

a diversity of coaching styles and approaches with the contextually-aligned coaching framework.

“Coaching is typically the most expensive single investment an organization makes in members of its organizational population,” concluded Hoover. “Coaching is also the most powerful

intervention available to modify behavior, increase self- and organizational-awareness, and ensure that experienced and emerging leaders are doing their best thinking. HR’s mandate to manage and develop an organization’s most significant asset must use the most powerful tool available to manage and develop the ultimate technology — the human brain.” ■

## TECHNOLOGY

### Survey shows most disruptive HR technology-related trends

New HR practices that are embedded into employee workflows and easy-to-use mobile applications are poised to dramatically reshape where and how people work, according to the most recent observations from Josh Bersin, principal, Bersin by Deloitte, Deloitte Consulting LLP. These are among the 10 top disruptive HR technology-related trends that appear in the new report: *HR Technology for 2015: Ten Big Disruptions Ahead*. Such workflow-embedded HR practices and mobile applications will allow employees to learn on demand, share work experiences in real-time, update goals on-the-go, and provide real-time data that ultimately can help leaders make better management decisions, according to Bersin.

“The HR technology market, which is now more than \$15 billion in software alone, is exploding with growth and innovation,” said Bersin. “One of the most disruptive changes is the trend toward automating HR practices and integrating systems, making them so easy to use that people think of them as part of their daily life. By embedding and automating HR practices into applications employees use every day, HR ‘systems of record’ are becoming ‘systems of engagement.’ At the same time, these systems give leaders the real-time information they need to adapt to changing business and labor conditions.”

By weaving many HR processes into employees’ daily workflow, solution providers are making it easier and simpler for people to update their status, find their benefits, locate other skilled people, find and take courses, assess job candidates, complete onboarding for a new job, and set or monitor goals.

“Think about goal management,” Bersin said. “Our research shows organizations that revise their goals quarterly or more frequently are nearly 50 percent more likely to have above-average customer satisfaction and 65 percent more likely to be effective at controlling costs than those organizations that only revise their goals once per year. So why wouldn’t the HR system facilitate this agile, continuous goal management process? Many startups are now focused here.”

While the shift in the purpose of software from “systems of record” to “systems of engagement” may be the most profound issue impacting HR technology today, additional disruptive trends include the following:

- **Mobile is everything:** Mobile applications, such as online learning and goal setting, are positioning the phone to become the primary interface for all HR-related applications.
- **Analytics-driven, science-based solutions:** One new solution looks at real-time labor activity and, using analytics techniques, shows companies how to save millions of dollars in payroll expense without reducing any worker flexibility or productivity.
- **Science of leadership, assessment, and psychology evolves with Big Data:** A new set of companies are emerging that bring together traditional assessment with big data and what may be called “social sensing” to help organizations better understand the relationship between skills, personality and organizational culture.
- **Sensing, crowdsourcing and the “Internet of Things”:** Companies now are looking at ways to capture continuous data about hourly employees (time worked, schedules), high potentials (are they threatening to leave, how are they feeling about work or their managers), and leaders and staff (how are they performing, why are some people performing better).
- **Radical changes to recruiting:** Thanks to new online job information and networking sites, we now source, attract and recruit candidates through what we call “network recruiting.”
- **Dramatic changes to performance management and talent mobility:** A new breed of performance management tools and approaches now includes features for regular check-ins, transparent sharing of goals, and agile team management.
- **Learning management systems (LMS) change and market expands:** New LMS technologies now integrate learning with talent and performance management. They include integrated content and expertise management, and they often have integrated collaboration, recommendation engines and tools.
- **HR management systems (HRMS) and talent management merge:** All major HRMS vendors offer recruitment, performance management, talent management, analytics and most offer learning solutions along with their core HRMS and payroll applications.
- **Technology-savvy vendors will likely outpace their peers:** Winning vendors will likely have agile, highly-expert teams, and will likely release new features and interfaces every few months. They also are expected to adapt their products rapidly as technology, user experience and client demands change. ■



## HR NOTEBOOK

### Unemployment drops to 5.9% in September

Total nonfarm payroll employment increased by 248,000 in September, the U.S. Bureau of Labor Statistics (BLS) reported October 3. The unemployment rate declined by 0.2 percentage point to 5.9 percent; the number of unemployed persons decreased by 329,000 to 9.3 million.

In September, job growth occurred in professional and business services (+81,000); retail trade (+35,000); and health care (+23,000). Also up in September, was employment in information (+12,000); food services and drinking places (+20,000); construction (+16,000); and financial activities (+12,000). Employment in other major industries, including manufacturing, wholesale trade, transportation and warehousing, and government, showed little change over the month.

### CPI for all items rises 0.1% in September

The Consumer Price Index for All Urban Consumers (CPI-U) increased 0.1 percent in September on a seasonally adjusted basis, the BLS reported October 22. Over the last 12 months, the all items index increased 1.7 percent before seasonal adjustment.

Increases in shelter and food indexes outweighed declines in energy indexes to result in the seasonally adjusted all items increase. The food index rose 0.3 percent as five of the six major grocery store food group indexes increased. The energy index declined 0.7 percent as the indexes for gasoline, electricity, and fuel oil all fell.

The index for all items less food and energy increased 0.1 percent in September. Several indexes were unchanged, and the indexes for airline fares and for used cars and trucks declined in September.

### Real average hourly earnings fall 0.2% in September

Real average hourly earnings for all employees fell 0.2 percent from August to September, seasonally adjusted, the BLS reported October 22. This result stems from unchanged average hourly earnings combined with a 0.1 percent increase in the Consumer Price Index for All Urban Consumers (CPI-U). Real average weekly earnings increased by 0.2 percent over the month due to a 0.3 percent increase in the average workweek more than offsetting the decline in real average hourly earnings.

## HR making strong case for flexible work arrangements

Most flexible work arrangements are successful, and HR professionals predict that telecommuting and other employer-offered flex options will increase substantially during the next five years, according to new survey findings from the Society for Human Resource Management (SHRM). Three-quarters or more (73 to 92 percent) of HR professionals from organizations that offer flexible work say 16 types of flexible arrangements are somewhat or very successful, according to *2014 Workplace Flexibility—Overview of Flexible Work Arrangements*. The survey polled 525 HR professionals from April through June 2014.

Flexible work arrangements range from compressed workweeks, flex time and phased retirement to job sharing, break arrangements and shift flexibility. Sabbaticals, an additional type of flex arrangement, were defined as somewhat or very successful by fewer (66 percent) of respondents. Of the two-fifths (39 percent) of respondents who offer telecommuting, one-quarter (26 percent) said the practice increased productivity of employees and one-third (32 percent) said the absenteeism rates of those who telecommute decreased.

Employee requests for flexible work arrangements increased in the past year, one-third (32 percent) of HR professionals said. Respondents were most likely to report that less than 26 percent of their workforce currently uses each of the flexible arrangements offered.

The vast majority of respondents said telecommuting (83 percent) and other flexible work arrangements (89 percent) would be more prevalent in the next five years. But less than one-half said a larger portion of their workforce would be likely or very likely to telecommute (39 percent) or become eligible for flexible options (48 percent) in the next five years.

HR professionals also reported that flexible work arrangements have a positive impact on their organizations. More than one-half of respondents said that flexibility had a positive impact on attracting and retaining employees, turnover, absenteeism rates, productivity, quality of employees' work, quality of employee's personal life, employee health, company culture, company public image, and employee morale and job satisfaction. When asked what makes flexible arrangements work, HR professionals ranked buy-in from top management, commitment from employees, and a supportive organizational culture as very important. ■