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Vision Expo Has Gone Green!

We have eliminated all paper session evaluation forms. Please be sure to complete your electronic session evaluations online when you login to request your CE Letter for each course you attended. Your feedback is important to us as our Education Planning Committee considers content and speakers for future meetings to provide you with the best education possible.



Ali Oromchian has no financial interests to disclose.



Avoiding Legal Minefields in the Optometry Practice



DENTAL & MEDICAL
COUNSEL
PROFESSIONAL LAW CORPORATION

Ali Oromchian, Esq.
Vision Expo West 2023





<p>Lease Negotiation Partnerships Practice Transitions Employment Law Board Defense Living Trusts/Wills Incorporations</p>	
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Agenda

Identify employment laws and HR trends to expect now and in 2024

Summarize the common pitfalls most optometry practices experience.

How to get HR compliant

Optometric Management Solutions

Foundational HR Priorities

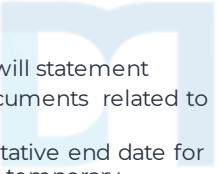

Optometric Management Solutions

**You're Hired!
Now What...**




The Offer Letter

- Start date
- Rate of pay
- Exemption Status
- Jon title
- Supervisor
- Practice Address
- At-will statement
- Documents related to I-9
- Tentative end date for any temporary employment




The Offer Letter

Contingency factors:

- Background or reference check
- Vaccine Verification

If possible, **delay a start date** until the above contingencies are completed

Tip:
Obtain a candidate signature

New Hire Documentation

Did you know, there are close to **12-20 forms** that must be completed when you hire a new team member?



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Strategies for New Hire Documents

Don't lose good employees with poor planning

Set realistic training timelines

Allow time in the workday to complete required forms.



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Do I have to collect documents for temporary employees or candidates scheduled for working interviews?



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Are "Working" interviews a good idea?

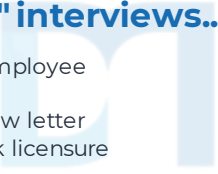


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If you do "working" interviews...

- Candidate becomes an employee
- Is shadowing an option?
- Provide a working interview letter
- **If performing work**, check licensure
- Pay!
- What about vaccines or testing?
- Provide guidance to other employees



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Have you established employment policies?



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Basic Policies

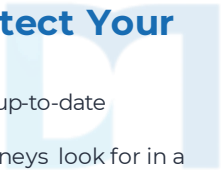
- Paid Sick Leave
- Family and Medical Leave
- Paid Family Leave
- Meal & Rest Breaks
- Overtime Regulations
- Outline that practice follows these regulations
- Does not discriminate/retaliate against



Policies Can Protect Your Practice

- First line of defense is an up-to-date employee manual
- First thing opposing attorneys look for in a case

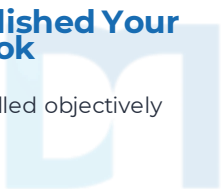
No Handbook = low-hanging fruit



Once You've Established Your Employee Handbook

All situations should be handled objectively and in the same manner.

Ensure you are not unfairly or inadvertently discriminating against any of your employees.





Employee Handbook Do's and Don'ts

Don't

- Google or get a handbook from your payroll provider
- All businesses are different: needs to be customized

Do

- Read your policies and follow them
- Train your managers to follow policies
- Keep up to date with latest legal changes / policies

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Law Updates




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Minimum Wage Updates


- State levels
- City levels




HR for Health

Update to Notices

- Data Breach (AZ, MD, NJ)
- Human Trafficking
- Employee Notifications for Citations (CA)



HR for Health

Hiring/Onboarding

- Independent Contractor Protections
- Bans on Age Info in Job Applications
- Limit to Automated Tools in Hiring
- E-Verify Requirements

HR for Health

Pay Ranges Listed in Job Postings

REQUIRED!

- New York
- California
- Washington
- More states to come...





Noncompete & Nonsolicitation Agreement Restrictions


- What's allowed?
- What's not?





Equal Employment Opportunity Updates & Harassment

- Discrimination laws
 - Including hairstyle discrimination bans
- Emergency leave responder
- Reasonable accommodations for disabilities
- Harassment bans
 - Including sexual harassment



Wage & Hour

- Overtime
- "Flexible & predictable" working arrangements
- Pay transparency
- Direct Deposit & Payroll Card laws
- Unclaimed Wages Law
- Meal & rest breaks
- Final wage payments
- Pay Equity Law



HR for Health

Health & Safety


- Carrying of firearms & firearm rights
- Leave protections for victims of domestic violence
- Vehicle tracking device limitations



HR for Health

Family Leave


- CO, CT D.C., IL, MA, MD, NY, OR, WA
- Time off for parental, medical, or bereavement leave
 - Who qualifies
 - Available benefits



HR for Health

Retirement

- Required for many states!
 - State-sponsored plans
 - 401(k) plans
- HR for Health 401(k) plan



HR for Health

Workers' Compensation

- AZ, CO, FL, OH
- Updates to when and to whom injuries should be reported



HR for Health

Security & Privacy

- Biometric privacy laws
- February 2022 lawsuit in Illinois
- Importance of automated HR software



Compliance Trends and Pitfalls to Avoid



Avoid Wage & Hour Mistakes




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Rest Breaks

- Employers must have a written policy
- Rest break must be *duty-free* and *uninterrupted*
- Employee should be free to leave the premises
- Penalties if rest break(s) not provided

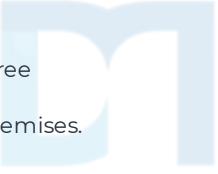


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Meal Breaks

- Must be 30-minutes, duty-free and uninterrupted
- Must be allowed to leave premises.
- Record keeping obligation
- Penalties owed if meal break(s) not provided
- No rounding practices




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Overtime

- Overtime is owed to all non-exempt employees
- State rule should not be confused with the Federal rule



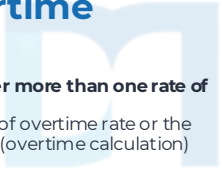
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Calculating Overtime Traps

- **When an employee works under more than one rate of pay during the workweek**
 - Weighted average calculation of overtime rate or the higher rate of pay can be used (overtime calculation)
- **Non-discretionary/discretionary bonuses**
 - Nondiscretionary bonuses must be included in an employee's regular rate of pay for overtime purposes




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Timekeeping

- **Rounding of minutes should not be performed**
- **Timekeeping maintained outside of a software can lead to mistakes**
 - improper storing of documentation
- **Editing an employee's timesheet should be avoided**
 - implement a system for errors
- **All transactions should be properly categorized**
 - Multiple rates of pay, bonuses, etc.




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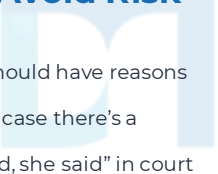
Policies & Procedures that Carry Risk



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Practical Steps to Avoid Risk

- **No Documentation**
 - Firing is a big deal, so you should have reasons why
 - Document those reasons in case there's a dispute
 - Don't leave it up to a "he said, she said" in court
 - Many states and courts are more favorable to the employee

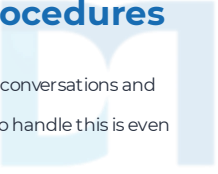


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Risky Policies & Procedures

Terminations that are Risky

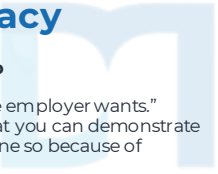
- Keep written documentation of conversations and situations with the employee
Electronic system like HRFH's to handle this is even better
- *Fact: The average settlement for wrongful termination is around \$40,000, with the lowest being \$5,000 and the highest being around \$80,000*



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"At-will" Conspiracy

- Relying on "At-Will" Relationship
 - "At will" isn't really "whatever the employer wants."
 - Documentation is needed so that you can demonstrate that the termination was not done so because of a discriminatory reason.
 - Ensure you have a business-qualifying reason to terminate
 - Can't just terminate without a reason due to opening you up to termination risk.



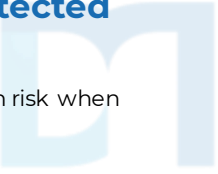
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Terminating a Protected Individual

A termination becomes high risk when the employee is:


- Pregnant
- Disabled
- Old



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How to Prepare for 2024




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#1

Update new hire checklist with most current versions of federal and practice-specific documents.



#2

Update your handbook with new laws.



#3

Ensure Minimum Wage is Updated Based on your City & State Requirements.



#4

Review employee certifications and trainings to make sure they are not expired.



#5

Make sure your timeclock and benefits are aligned.



The HR for Health Solution
www.hrforhealth.com



- Handbook**
A working handbook that sets proper expectations
- Payroll**
Add-on payroll and have everything together in one easy to use platform
- HR Support**
Trained HR professional available to guide you to the right solutions
- Documentation**
Complete employee documentation stored securely in the cloud
- Time Clock**
Accurate time keeping for wage and hour compliance
- Performance Management**
Annual Reviews done on time with positive results





What Your
Optometry
Lawyer Wants
You to Do
Now to
**Protect
Yourself** in
the Next 10
Years



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Thank You For Your Time

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