



Making Sense of California's Newest Employment Laws

**NANCY
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Sexual Harassment Avoidance Training Requirements

Sexual Harassment Avoidance Training Requirements



Training deadline extended to January 1, 2021 (originally January 1, 2020)



Applies to all employers with five or more employees



Training must be done every two years for all employees



Newly hired employees must be trained within six months of hire date

Sexual Harassment Avoidance Training Requirements



Supervisors must be trained within six months of assuming a supervisory position or hire date



If trained in 2018, you will need to be trained in 2020



This applies to temporary and seasonal workers, hired to work less than six months, must be trained within 30 calendar days or within 100 hours worked

Cooperative of American Physicians, Inc. offers training to our members and their staff, at no cost to them.

Members will receive further information via email.

Sexual Harassment Avoidance Training

Independent Contractors v. Employees

Independent Contractors v. Employees

April 30, 2018 the California Supreme Court issued an opinion on *Dynamex Operations West, Inc v. Superior Court*, clarifying the standard to determine whether workers should be classified as employees or Independent Contractors

California fought hard to ensure the interests of physicians were exempted from the legislation per CMA Newswire Monday, September 30, 2019

Physician Assistants and Nurse Practitioners are not exempt and to be correctly classified, would need to pass the ABC test

The ABC Test Must Establish:

A

that the worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact; *and*



B

that the worker performs work that is outside the usual course of the hiring entity's business; *and*



C

that the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

Other Updates

Discrimination

Effective January 1, 2020, employees have an extended time to file a charge of discrimination with the Department of Fair Employment and Housing (DFEH)

Existing law, an employee alleging claims under Fair Employment and Housing Act, had one year to file a charge with DFEH, or one year from termination or the alleged discriminatory act to file the charge

This extension may make litigation more difficult for employers as witnesses, evidence and memories change over time

Arbitration

AB 51: effective 1/1/2020, prohibits mandatory arbitration agreements with employees (with limited exceptions)

Employers may not use an “opt out”, meaning employees will have to tell you they don’t agree to an arbitration agreement

Arbitration

If you have had employees sign an arbitration agreement and you have language in your HR Manual regarding mandatory arbitration, change the language and your practices

You may still use arbitration agreements but they must be voluntary and affirmatively elect to enter into an arbitration agreement

Employer Obligations in the Event of Closures (Non-Exempt Staff)

Non-exempt employees who report to work but work less than $\frac{1}{2}$ the day must be paid at their usual rate for $\frac{1}{2}$ day – at least two hours of pay but no more than four hours

Employees Cannot Get to the Practice:

Non-exempt employees who are unable to get to the office in the event of road closures, etc. do not have to be paid for the work hours missed

Employer Obligations in the Event of Closures (Exempt Staff)

An exempt employee must be paid for the full work day that they perform any work

If a business was closed for a week, the exempt employee must be paid for the week if any work was performed

These rules apply to events outside the employers control, such as when operations can not begin or continue, due to threats to the employee or property, when public utilities fail to supply electricity, water or gas; or when the interruption is caused by an Act of God.

Miscellaneous

Effective January 1, 2020 – the new annual overtime pay threshold is \$35,568. This means that any exempt level employee, each must be paid at least \$35,568. Employees must also meet the Fair Labor Standard Act (FLSA) duties test. Anyone earning less than that amount must be paid overtime (1.5 times their regular hourly rate, for any time worked after 8 hours per day and 40 hours per week

Employees who are terminated must be paid on the last day worked, no exceptions

Employees who resign with little or no notice must be paid within 72 hours of their last day worked

Miscellaneous

Your employees should not also be your patients

Don't loan money to your employees

Be sure that meal breaks and rest periods are documented to avoid wage claims

A human resources hotline for employment-related questions, such as termination, wage and hours matters, leaves of absence, discrimination allegations, employee misconduct, performance problems, and more

Employment-related legal consultation

A customizable Human Resource Manual that considers federal and state labor issues and can be applied to any size practice

Educational Human Resources video library

Free online sexual harassment avoidance training program

CAP Offers Member Resources

Please use the chat box to the right of your screen to submit questions.

Your questions are only visible to you and our behind-the-scenes staff.

Q&A