



Workforce Challenges in Healthcare

Presented for CAP MPT

By

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Agenda

- Today, you will learn ways to reduce your employment risks:
- Improve Hiring Decisions
- Refresh understanding of high-risk areas of employment law
- Understand and Meet Employee Expectations
- Properly utilize performance management tools
- Revisit termination decision-trees

Job Ads

- Hire Right by Doing Homework
- Compliant job advertisements
- 15+ employees, post salary range
- Essential Job Functions
- Accommodation and EEOC language
- Onsite, remote, hybrid
- Physical Requirements
- Add: Second Chance language in LA Unincorporated Areas



AVOID!

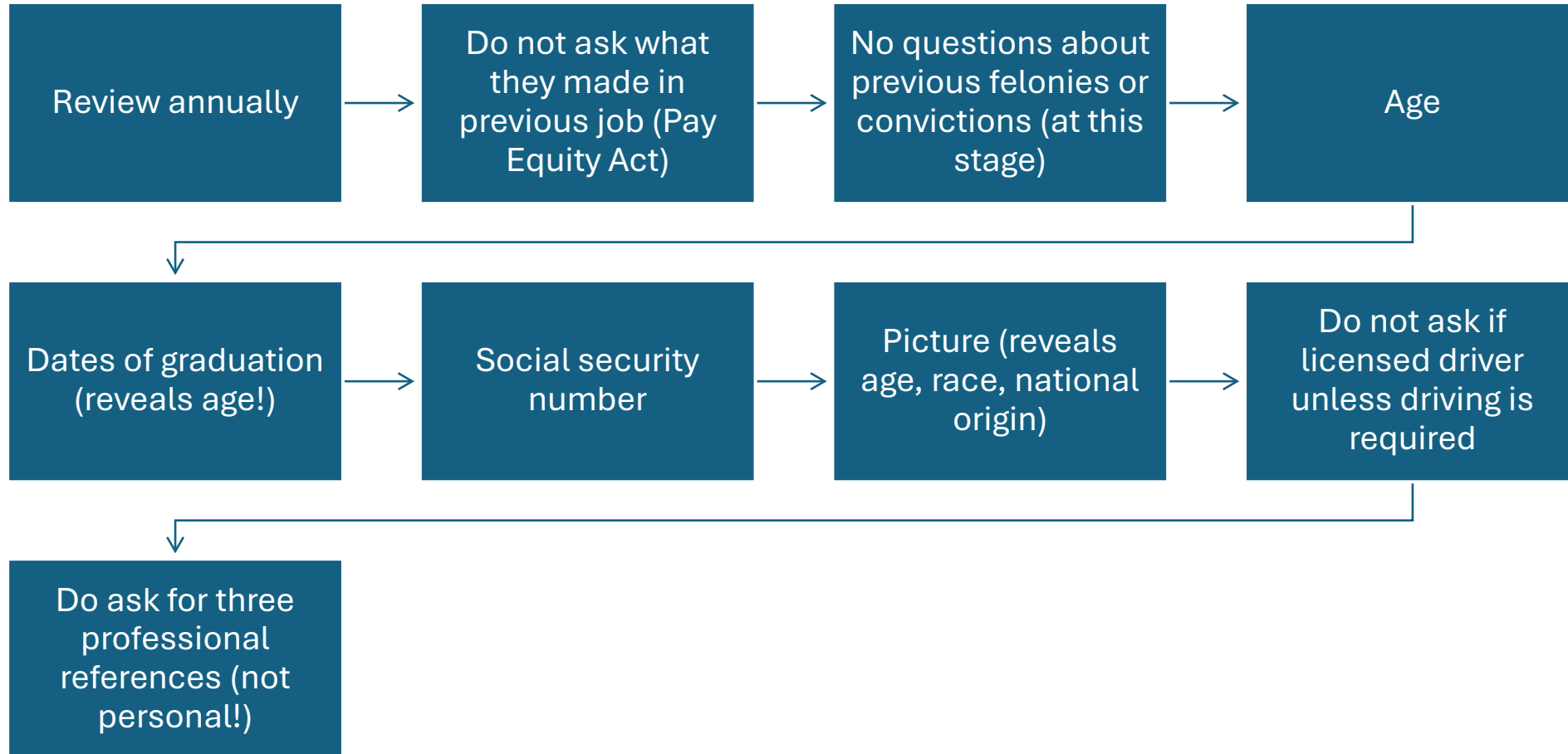
Age-related language

Gender specific terms

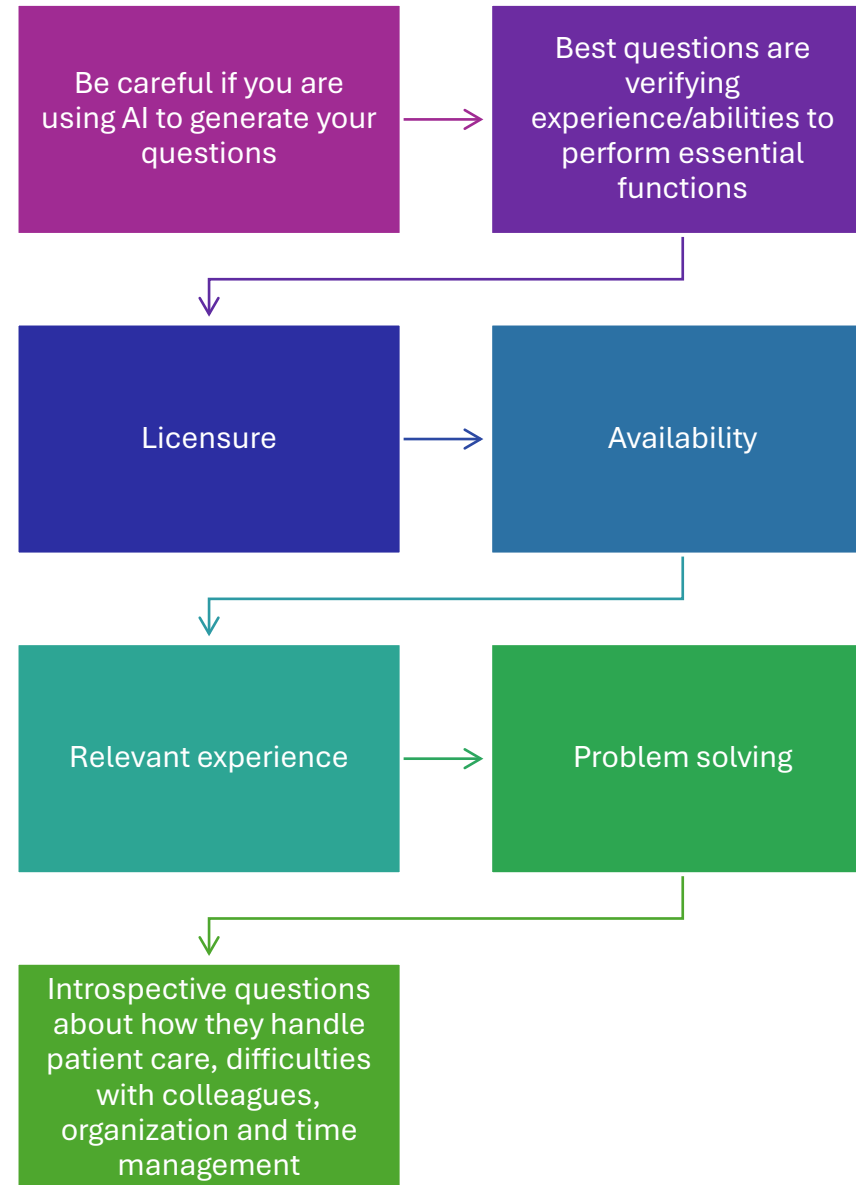
Disability implications unless Bona Fide Qualification

Unnecessary physical requirements

Job Applications



Interviewing Candidates



Sell the Actual Job

Employees do not like bait and switch

“Quiet Quitting” has not stopped

Think about your competition; SB 525 raised compensation; even if you are not covered employer, are your rates market value?

What benefits have the most impact

In office vs. hybrid; are you consistent?

Attainable metrics: employees hate undefined bonuses- what do they do, what do they get?

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Listen
carefully...they
are showing
you who they
are

- If their first questions are about how much remote work/time off or all about your benefits, this is someone looking out for themselves first
 - If they have been out of market for awhile, why? What have they been doing to find work? What challenges have they faced?
 - Have they brushed up on any professional skills while looking for work?
 - If they quit their last job, why?
 - How do they receive feedback?
- 
- A series of blue curved dashes in the bottom right corner, forming a partial arc.

Candidate Screening :Don't Skip!

Reference Checks
Background Checks
Criminal History
Professional License
Verification
Social Media
Considerations

Using AI in Hiring

- The Law:
- The most significant development is the California Civil Rights Council's regulations interpreting FEHA to expressly cover AI, algorithms, and automated decision systems (ADS). These regulations clarify that employers remain legally responsible for discriminatory hiring decisions, even if made or assisted by AI.
- <https://calcivilrights.ca.gov/2025/06/30/civil-rights-council-secures-approval-for-regulations-to-protect-against-employment-discrimination-related-to-artificial-intelligence>

New AI Regs Aim to:



MAKE IT CLEAR THAT THE USE OF AN ADS MAY VIOLATE CALIFORNIA LAW IF IT HARMS APPLICANTS OR EMPLOYEES BASED ON PROTECTED CHARACTERISTICS, SUCH AS GENDER, RACE, OR DISABILITY.



RECORDS ON HOW ADS WAS USED MUST BE MAINTAINED FOR 4 YEARS.



AFFIRM THAT AUTOMATED-DECISION SYSTEM ASSESSMENTS, INCLUDING TESTS, QUESTIONS, OR PUZZLE GAMES THAT ELICIT INFORMATION ABOUT A DISABILITY, MAY CONSTITUTE AN UNLAWFUL MEDICAL INQUIRY.



ADD DEFINITIONS FOR KEY TERMS USED IN THE REGULATIONS, SUCH AS “AUTOMATED-DECISION SYSTEM,” “AGENT,” AND “PROXY.”

The Computer Did It and the Dog Ate My Homework

Common AI applications include:

- Resume screening
- Candidate ranking
- Interview scheduling
- Automated interview scoring
- Skills assessments
- Personality testing
- Writing analysis
- Recruiting chatbots
- Predictive hiring software
- Employers remain legally responsible for every employment decision made with the assistance of AI. An employer cannot avoid liability by claiming that "the computer made the decision."

Algorithmic Bias

- AI systems learn from historical data. If the historical hiring data reflects past biases, the AI may perpetuate or even amplify those biases.

Examples include:

- Preferring candidates from certain medical schools because historically they were hired
- Ranking applicants higher because of employment history that correlates with race or socioeconomic status
- Downgrading applicants with employment gaps that disproportionately affect women
- Rejecting applicants based on zip codes that correlate with protected classes
- Even if no one intentionally programmed the discrimination, the resulting hiring practice may violate California law.

How Can Employers Protect Themselves

- Ask your programmers or vendors:
- What data was used to train your model?
- Ask them to independently audit the data
- Test against disparate impact
- How often is the model revalidated?
- Make sure AI not creating pattern associated with younger workers
- Screen out ethnic names
- Be able to defend hiring decisions based on objective criteria



EEOC Guidance on AI Use

1

Evaluate vendors carefully

2

Understand how hiring tools function

3

Monitor outcomes for discrimination

4

Provide accommodations during AI Assessments (i.e. timed tests, may discriminate against dyslexic individual...need extra time?)

Increased Employee Expectations

AI has turned everyone into mini-lawyers; they are researching EVERYTHING. You better know the law.

Employment Basics

Wage and Hour

Exempt v. Hourly

Overtime

Meal Periods/Rest Breaks

Reimbursements

Sick leave/vacation

Leaves of Absence

Accommodation

What Are Healthcare Employees Looking For?

Work-Life Balance
and Flexible
Scheduling

Mental Health
Support and
Burnout Prevention

Competitive Pay
and Benefits;
Transparency

Career
Development and
Growth

Respectful Culture

Strong Inclusion
Efforts

Next generation
wants modern
technology and
efficiency

Strong leadership
Communication

Fair
Critique/Consistent
Rules

What Can Employers Do Better?



Review scheduling and flexibility



Revise offer
letters/handbook/remote policies

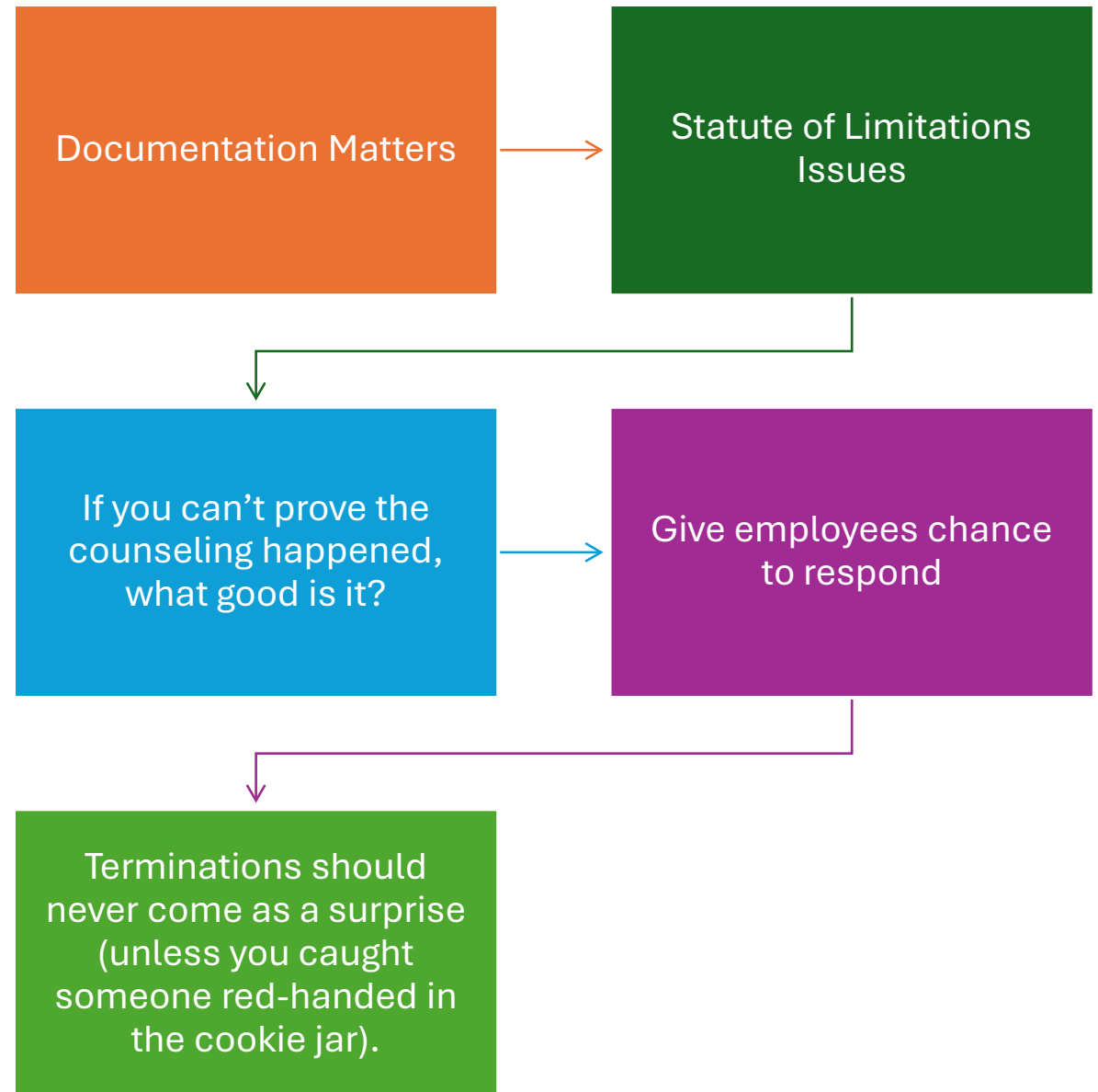


Invest in mental health benefits
(Calm App; EAP; PTO)



Train supervisors on respectful
leadership

Performance Management



Annual Performance Review

Feedback should be constant but Annual Review is a “catchall” opportunity

Allow employee to self-reflect; talk about their goals; admit weaknesses; ask for support

Performance reviews are only helpful if honest

Progressive Discipline

Verbal counseling (but then time stamp summary)

Written warning

Second warning

Final Warning

Suspension/ Last Chance Agreement

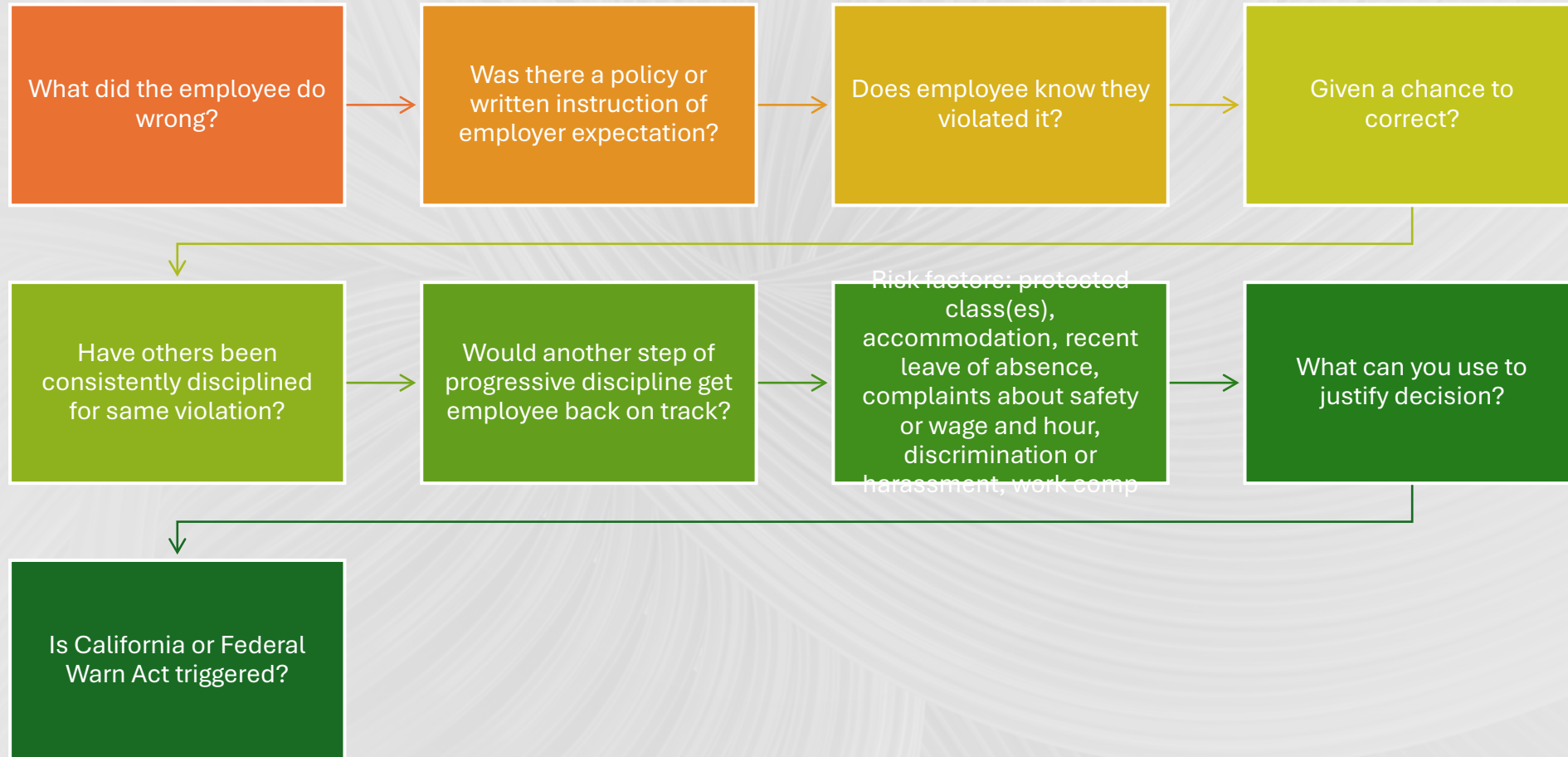
PIP

Termination

90 day rebuttable presumption

Under California's [SB 497](#), if an employer takes an adverse action (like firing or demoting) within 90 days of an employee engaging in a protected activity (such as reporting wage theft or taking leave of absence), the law presumes the employer retaliated.

Termination Decision Tree



Lessening Risk of Employment Claims

- Employee was adequately warned
- Others have been terminated for similar offense
- Employee has been paid all wages, reimbursements, commissions, bonuses, etc. owed on date of termination
- Consideration of severance package; employee signs release of claims in exchange for “consideration” – can be lump sum, continuing payment, COBRA subsidy, job replacement services
- Detailed termination letter that scares off plaintiff attorney
- Provide unemployment packet and Change in Relationship form



*Thank You
For Listening*

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