

# Handbook Best Practices

**Employee Benefits Association of Northern Illinois  
February 26, 2020**



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# Living, Breathing Document

- ❖ Should reflect workforce and culture
- ❖ Should grow as you grow
- ❖ Should be tailored based upon experience
- ❖ Quality over quantity
- ❖ Open Door Policy is best practice

# Contract?

- ❖ *Duldulao v. Saint Mary of Nazareth Hospital Center*, 115 Ill.2d 482 (Ill.1987): Absent a disclaimer, a handbook can create a binding employment contract
- ❖ *Doyle v. Holy Cross Hospital*, 186 Ill.2d 104 (Ill.1999): Absent a disclaimer, unilateral modification of an existing handbook requires consideration to be enforceable
- ❖ If employer initially disseminated a handbook without a disclaimer, the employer may be contractually liable and should further analyze the facts and language to limit exposure and ensure handbook enforceability

# Disclaimer Language

- ❖ This Handbook is not a contract of employment, express or implied
- ❖ This Handbook is meant to provide information and guidelines to employees in order to assist them in the performance of their duties
- ❖ This Handbook replaces and supersedes previous handbooks
- ❖ This Handbook does not in any way alter the 'at will' employment relationship; either employee or employer can terminate at any time, for any reason
- ❖ This Handbook can be revised at any time, with or without notice

# Values

- ❖ Set the tone
- ❖ Employer history
- ❖ Welcome letter
- ❖ Core values

# Must Have Policies

- ❖ EEO
- ❖ Anti-Harassment
  - ❖ Sexual
  - ❖ Protected class other than sex/gender
- ❖ **Accommodation**

# Anti-Discrimination Laws

- ❖ Summary of relevant statutes:
  - ❖ Title VII of the Civil Rights Act of 1964
  - ❖ The Age Discrimination in Employment Act
  - ❖ The Americans with Disabilities Act
  - ❖ The Rehabilitation Act of 1973
  - ❖ The Genetic Information Non-Discrimination Act
  - ❖ The Illinois Human Rights Act (IHRA)
  - ❖ Other federal, state, and local laws

# EEO Policy

- ❖ Protected categories include: *actual or perceived* sex, pregnancy (*including childbirth and medical and common conditions related to pregnancy and childbirth*), religion, national origin, ancestry, race, color, disability, age, marital status, sexual orientation, status upon discharge from the military service, military status, genetic information, order of protection status, citizenship, arrest record, and any other characteristic protected by law
- ❖ Include catchall language to account for legislative changes
- ❖ The Workplace Transparency Act recently amended the Illinois Human Rights Act (IHRA) to add “actual or perceived”
- ❖ IHRA pregnancy language updated more recently in 2017



# EEO Policy Continued

- ❖ Prohibit discrimination
  - ❖ Applies to all employer actions, including hiring, promotion, discipline and discharge
- ❖ Provide reporting options
- ❖ Prohibit retaliation

# Harassment Policy

- ❖ A specific form of discrimination
  - ❖ Example: National origin harassment is discrimination based on national origin
- ❖ EEOC checklist: [https://www.eeoc.gov/eeoc/task\\_force/harassment/checklist2.cfm](https://www.eeoc.gov/eeoc/task_force/harassment/checklist2.cfm)
  - ❖ Unequivocal statement that harassment will not be tolerated
  - ❖ Description of prohibited conduct, including examples
  - ❖ Reporting system with multiple avenues
  - ❖ Investigation information that addresses desire to maintain confidentiality, but no guarantee
  - ❖ Assurance of corrective action if complaint substantiated
  - ❖ Prohibition on retaliation

# New Training Requirement

- ❖ Annual harassment training requirement for all employers pursuant to the Workplace Transparency Act
- ❖ Annual harassment and discrimination training requirement for all public employees under the State Officials and Employees Ethics Act

# Harassment Policy Continued

## ❖ Sexual Harassment

- ❖ Definition recently updated: means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment  
775 ILCS 5/2-101(E)

# Sexual Harassment

- ❖ Can include physical, verbal, visual, electronic and nonverbal conduct
- ❖ Range of subtle to not so subtle behaviors
- ❖ May involve individuals of the same or different sex
- ❖ Conduct does not need to be sexual to constitute sexual harassment
  - ❖ Includes conduct motivated by hostility towards an individual because of the presence of the individual's gender in the workplace

# Sexual Harassment Examples

- ❖ Verbal: Sexual innuendos, suggestive comments, insults, humor, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside of their presence, of a sexual nature
- ❖ Non-Verbal: Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises
- ❖ Visual: Posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites
- ❖ Physical: Touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act, or actual assault
- ❖ Textual/Electronic: "Sexting" (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and social network websites like Facebook and Twitter)

# Other Prohibited Harassment

- ❖ Reiterate list of protected classes, but remove gender and sex
- ❖ Give examples: epithets, slurs or negative stereotyping, threatening, intimidating or hostile acts, denigrating comments, jokes or actions, display or circulation of written or graphic material that denigrates or shows hostility toward an individual or group

# Public Contractors

- ❖ Policy should address available legal recourse and the investigative and complaint process available through the Illinois Department of Human Rights and the Illinois Human Rights Commission
- ❖ Must provide agency contact information
- ❖ Sample policy:  
<https://www2.illinois.gov/dhr/PublicContracts/Documents/SexualHarassmentModelPolicyStatement.pdf>



# Scope Expanded

- ❖ The Workplace Transparency Act extends IHRA protections to non-employees such as independent contractors, consultants and other contract workers
- ❖ Under this provision, employers may be held liable for harassing conduct that substantially interferes with a contractor's work performance or creates an intimidating, hostile or offensive working environment based on a protected class
- ❖ IHRA definition of "working environment" amended to include any physical location at which an employee is assigned to perform his or her duties
- ❖ Update policies accordingly

# Final Harassment Considerations

- ❖ Clearly address discipline, up to and including termination
- ❖ Provide option to confront harasser if comfortable
- ❖ Address supervisor responsibilities; must report
- ❖ Address false and frivolous complaints; subject to discipline just like harassment
- ❖ Address harassment by non-employees
  - ❖ Limited control over non-employees

# Accommodation Policy

- ❖ Rights pursuant to Americans with Disabilities Act, the ADA Amendments Act, and the IHRA
- ❖ Address both disability and pregnancy
- ❖ Will provide a “reasonable accommodation” to:
  - ❖ Qualified individuals with disabilities who can otherwise perform the involved job’s essential functions *and*
  - ❖ Pregnant employees (including childbirth or medical or common conditions related to pregnancy or childbirth)
  - ❖ *Unless* the accommodation will impose an undue hardship

# Accommodation Policy Continued

- ❖ Encourage/require written request
  - ❖ Consider including an accommodation form
- ❖ Provide examples
  - ❖ Disability: modifications to the work environment, acquisition of assistive devices, modified or part-time work schedules, modified workplace policies, reassignment, reallocation of marginal job functions, leaves of absence, etc.
  - ❖ Pregnancy: more frequent or longer bathroom, water or rest breaks, assistance with manual labor, light duty, temporary transfer to a less strenuous position, acquisition or modification of equipment, reassignment to a vacant position, leaves of absence, etc.

# Interactive Process

- ❖ Consideration of the requested “reasonable accommodation” by management
- ❖ Discussions with the otherwise qualified individual concerning ideas that he/she may have that would allow him/her to satisfy the job’s essential functions
- ❖ Consultation with appropriate health care professionals and/or disability constituent organizations for assistance in reviewing and exploring possible reasonable accommodations that would allow the otherwise qualified individual to perform the job’s essential functions
- ❖ Undue hardship analysis

# Accommodation Policy Continued

- ❖ Applies to both candidates and employees
- ❖ Good place to address rights under the Nursing Mothers in the Workplace Act 820 ILCS 260/1 *et seq.*
  - ❖ Nursing employees may take reasonable **paid** breaks to express milk for one year after a child's birth
  - ❖ Break time shall run concurrently with any already provided break time and additional, reasonable break time will be provided as needed
  - ❖ A private place for expression of milk will be provided (other than a bathroom)

# Posters

- ❖ Also a good spot to include IDHR posters
- ❖ <https://www2.illinois.gov/dhr/Publications/Documents/SH%20and%20DISCRIMINATION%20EMPLOYEE%20POSTER.pdf>
- ❖ [https://www2.illinois.gov/dhr/Publications/Documents/Pregnancy Posting-Igl-ENG14.pdf](https://www2.illinois.gov/dhr/Publications/Documents/Pregnancy%20Posting-Igl-ENG14.pdf)

# Posters Continued

- ❖ Illinois law requires employers to “include in any employee handbook information concerning an employee’s rights under this Article, a notice, to be prepared by or approved by the Department [of Human Rights], summarizing the requirements of this Article...”, i.e., handbook needs to include the Pregnancy Rights Poster 775 ILCS 5/2-102(K)(1)
- ❖ Applicable Regulation clarifies: “An employer must include in any employee handbook information concerning a job applicant's or employee's rights regarding pregnancy in the workplace. An employer's handbook that contains the same information as set forth in the Department's notice will be sufficient to comply with this subsection. However, nothing in this subsection prohibits the employer from providing additional information.” 56 Ill. Admin. Code 2535.300
- ❖ Best practice is to also include the Discrimination and Sexual Harassment Poster



# Confidentiality Policies

- ❖ Broadly define “Confidential Information”
- ❖ Prohibit unauthorized disclosure
- ❖ Require safeguards
  - ❖ Passwords, prohibition of public discussion, shredding of documents, taking hard copies only when necessary, etc.
- ❖ Subject to disciplinary consequences up to and including termination

# Technology Policies

- ❖ Computer and telephone systems are employer property
- ❖ Reserve right to access, including personal message sent using employer equipment
- ❖ No expectation of privacy
- ❖ Subject to disciplinary consequences up to and including termination
- ❖ Consider social media policy

# Workplace Safety Policies

- ❖ Remember duty to provide “place of employment free from recognized hazards” under OSH Act
- ❖ Prohibit direct or indirect violence or threats
- ❖ Reiterate commitment to safety
- ❖ Encourage reporting of co-worker in need of help or any concern
  - ❖ Such reports will be kept as confidential as possible and investigated
  - ❖ Prohibit retaliation
- ❖ Consider banning weapons “up to the greatest extent permissible under applicable law”
  - ❖ Remember concealed carry parking lot exception

# Drug Policies

- ❖ HB 1438 – Cannabis Regulation and Tax Act
  - ❖ Passed by Legislature **June 6, 2019**
  - ❖ Signed into law by Governor on **June 25, 2019**; 610 pages long
  - ❖ Amended and clarified by a Trailer Bill (SB 1557) on **December 4, 2019**
  - ❖ Legalizes sale of Cannabis for recreational use **January 1, 2020**

# Implications for Employers: Section 10-50

- ❖ Trailer Bill amended Section 10-50 and provides the following:
  - (e) Nothing in this Act shall be construed to create or imply a cause of action for any person against an employer for:
    - ❖ (i) actions taken pursuant to an employer's reasonable workplace drug policy, including but not limited to subjecting an employee or applicant to reasonable drug and alcohol testing, reasonable and nondiscriminatory random drug testing, and discipline, termination of employment, or withdrawal of a job offer due to a failure of a drug test...

# Testing Allowed: Section 10-50

- ❖ Employers do not violate the Cannabis Act by:
  - ❖ Subjecting employees/applicants to reasonable drug and alcohol testing
  - ❖ Subjecting employees to reasonable and nondiscriminatory random testing
  - ❖ Disciplining or terminating an employee, or withdrawing a job offer from an applicant, due to a failure of a drug test
  - ❖ Disciplining or terminating an employee for refusing testing, including an employee's refusal to be tested or to cooperate in testing procedures, based on the employer's good faith belief that an employee used or possessed cannabis in the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's employment policies
  - ❖ Disciplining or terminating employment, based on the employer's good faith belief that an employee was impaired as a result of the use of cannabis, or under the influence of cannabis, while at the employer's workplace or while performing the employee's job duties or while on call in violation of the employer's workplace drug policy

## Other Implications for Employers

- ❖ Employers are not required to “to permit an employee to be under the influence of or use cannabis in the employer’s workplace or while performing the employee’s job duties or while on call”
- ❖ Employers are not limited “from disciplining an employee or terminating employment of an employee for violating an employer’s employment policies or workplace drug policy”

## Impairment/Under the Influence (Cont.)

- ❖ “An employer may consider an employee to be impaired or under the influence of cannabis if the employer:
  - ❖ has a good faith belief that an employee manifests specific, articulable symptoms while working that decrease or lessen the employee’s performance of the duties or tasks of the employee’s job position, including symptoms of the employee’s speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, or negligence or carelessness in operating equipment or machinery;
  - ❖ disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property;
  - ❖ disruption of a production or manufacturing process;
  - ❖ or carelessness that results in any injury to the employee or others.”
- ❖ If an employer disciplines an employee on the basis that the employee is under the influence or impaired by cannabis, the employer must afford the employee a reasonable opportunity to contest the basis of the determination.



# Marijuana will be a “lawful product”

- ❖ The IL Cannabis Act also amends the IL “Right to Privacy in the Workplace Act”
  - ❖ Prohibits employers from discriminating against employees/applicants who use “lawful products off the premises of the employer during nonworking hours.” (820 ILCS 55 *et seq*)
- ❖ **“Except as otherwise specifically provided by law, including Section 10-50 of the Cannabis Regulation and Tax Act...”**

# OSHA Regulations

- ❖ May 12, 2016: Regulations published that required employers to establish reasonable accident reporting procedures and prohibited discipline for reporting without consideration of actual misconduct
- ❖ October 11, 2018: Regulations were clarified to confirm post-incident drug testing is not prohibited
  - ❖ Drug testing is permissible in “most instances”
  - ❖ If done post-accident, the employer should test ALL employees whose conduct could have contributed to the accident, not just those injured
- ❖ Update post accident/incident testing accordingly

# Policy Changes

- ❖ Talk with your occupational health and/or insurance carrier
  - ❖ Consider industry, duties, recruiting implications
- ❖ Break out “cannabis” from “illegal drugs and alcohol”
  - ❖ No longer illegal under state law
- ❖ Update reasonable suspicion language to mirror statute
- ❖ Update post accident/incident testing to comply with OSHA Regs
- ❖ Cross reference Accommodation policy in connection with employee(s) certified to use medical cannabis
- ❖ Provide opportunity to contest
  - ❖ Applicability: recommended for any positive for cannabis
  - ❖ Does not mean you need to accept
  - ❖ Can still enforce zero tolerance

# Unchanged Provisions

- ❖ Train supervisors
- ❖ Prohibit failure to cooperate with testing or tampering with a specimen
- ❖ Prohibit possession, storage, transfer at work, etc.
- ❖ Address right to inspect
- ❖ Require that prescription drugs be used in accordance with physician directives
- ❖ Require compliance with other applicable laws
  - ❖ DOT Regulations continue (Section 10-50(g))
  - ❖ Federal and state Drug-Free Workplace Acts
    - ❖ Employees still need to notify HR of a conviction involving a federal or state criminal drug statute for a violation occurring in the workplace within 5 days of such conviction

# Expense Reimbursement

- ❖ Effective January 1, 2019
- ❖ Illinois Wage Payment and Collection Act (820 ILCS 115/1 *et seq.*) was amended to require employers to reimburse expenses incurred by employees in connection with their employment
  - ❖ Include reasonable expenditures or losses required in the discharge of an employee's duties which primarily benefit the employer
  - ❖ Exclude losses due to normal wear and tear, theft, or negligence are not included
  - ❖ Requires employees to submit expenditures with supporting documentation, such as a receipt, within **30 calendar days** of the expense
  - ❖ An employer may provide extra time pursuant to an expense reimbursement policy
  - ❖ If supporting documentation is lost or nonexistent, the employee must submit a signed statement to that effect
- ❖ Update expense reimbursement policy to ensure that it provides for sufficient reimbursement, includes dollar limits, requires documentation, and is reasonably enforceable
  - ❖ Include a list of expenses that are generally reimbursable, the amount or proportion of the expense eligible for reimbursement, and the pre-approval process for expenses not listed and/or above a certain dollar amount
  - ❖ Consider cell phones and home internet; may want to explicitly exclude

# VESSA

- ❖ Victims' Economic Security and Safety Act (VESSA) (820 ILCS 180/1 *et seq.*) amended by Workplace Transparency Act
  - ❖ VESSA allows employees to take up to 12 weeks of unpaid leave for purposes of receiving medical, psychological or other services after experiencing domestic or sexual violence
  - ❖ Now includes victims of **gender** violence, along with victims of domestic and sexual violence victims
    - ❖ "Gender violence" includes actual or perceived gender
    - ❖ Update policy
- ❖ Effective January 1, 2020

# Equal Pay Act

- ❖ Illinois Equal Pay Act (820 ILCS 112/10 *et seq.*)
- ❖ Effective September 29, 2019
- ❖ Prohibits inquiries of applicants or their prior employers about wage history and the use of wage information to screen applicants
  - ❖ Allows employers to provide applicants with wage information such as the starting wage rate or range for the position (in order to confirm the applicant's interest at the contemplated pay)
  - ❖ Allows employers to discuss wage expectations with applicants
- ❖ Prohibits contract and policies restricting an employee's ability to discuss wages and benefits with other employees
  - ❖ Ensure handbook does not contain such a restriction
  - ❖ HR and other employees with access to employee compensation information may be required to keep that information confidential
- ❖ Apart from differentials based on a seniority system, a merit system, or a system measuring quantity or quality of production, allow pay differentials based on other factors only if the factor:
  - ❖ Is not based on or derived from a differential in compensation based on sex or race (or any other protected characteristic);
  - ❖ Is job-related and consistent with business necessity; and
  - ❖ Accounts for the differential
- ❖ Review application forms, handbook, and employment agreements; review hiring process; consider pay audit

# Time Off

- ❖ Clarify earned vs. gifted in connection with vacation, PTO, and sick leave
  - ❖ Be careful about advancing; cannot deduct unless you have a signed vacation advance form (56 Ill. Admin. Code 300.760)
- ❖ Address whether time off can be carried over year to year
- ❖ Address evaluation of requests and reserve discretion
- ❖ Address concurrent use requirements
  - ❖ Can require employees to take accrued paid leave to cover some or all FMLA, VESSA, etc. leave



# Code of Conduct

- ❖ Provide examples
  - ❖ Add to list from real world experience
- ❖ State “up to and including immediate termination”
- ❖ Helpful if you need to defend against a charge or claim, including unemployment

# Attendance

- ❖ Best practice to have a policy that states expectation of timely and regular attendance
- ❖ Lay out notice requirements and consider adding multiple layers for purposes of FMLA
- ❖ Address unplanned absences

# Sick Leave

- ❖ Remember newer obligations in connection with the Illinois Employee Sick Leave Act (820 ILCS 191/5 *et seq.*)
- ❖ Employee may use personal sick leave benefits for absences due to an illness, injury, or medical appointment of the employee's child, stepchild, spouse, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent, on the same terms upon which the employee is able to use personal sick leave benefits for the employee's own illness or injury
  - ❖ Can request verification
  - ❖ Can limit family use to half of an employee's sick days

# Child Bereavement Leave

- ❖ Illinois more recently passed the Child Bereavement Leave Act (820 ILCS 154/1 *et seq.*)
- ❖ Applies to employers with 50 or more employees
  - ❖ If you have a Bereavement Leave Policy and over 50 employees, be sure to mention

# Timekeeping

- ❖ Exempt employees: “Every employer shall keep a time book showing the names and addresses of all employees and the hours worked by each of them on each day, and such time book shall be open to inspection at all reasonable hours by the Director of Labor.” 820 ILCS 140/5
- ❖ Practicality considerations
- ❖ Compromise: Advise when working hours other than those customarily worked

# Acknowledgement

- ❖ Have employees sign off that they received, read, and agree to adhere to the Handbook
- ❖ Include 'at will' disclaimer
- ❖ Confirm Handbook is not a contract

# FLSA Updates

- ❖ Effective January 1, 2020
- ❖ Raises the salary threshold required for administrative, executive, or professional “white collar workers” to be exempt from overtime pay to \$35,568 per year
- ❖ Raises the threshold for highly compensated employees to \$107,432 per year
- ❖ Up 10% of an employee’s salary can be comprised of non-discretionary bonuses and incentive payments
- ❖ Review classifications to ensure that new salary thresholds are satisfied
  - ❖ If not, reclassify as non-exempt or increase employee’s salary
  - ❖ Consider employee morale, job descriptions, staffing needs, the likelihood of overtime, timekeeping methods, work performed remotely or “after hours”, and access to technology (smart phones, laptops, etc.)
  - ❖ Could impact eligibility for employee benefits

# Minimum Wage

- ❖ The Lifting Up Illinois Working Families Act (5 ILCS 100/5-45 *et seq.*) was signed February 19, 2019
- ❖ The Act includes “stepping stones” to increase the state’s minimum wage eventually to \$15 per hour
- ❖ The Act includes other provisions that affect tipped employees, tax credits for small businesses, and penalties for employers who are in violation



Starting Date	Minimum Wage in Illinois
January 1, 2020	\$9.25
July 1, 2020	\$10
January 1, 2021	\$11
January 1, 2022	\$12
January 1, 2023	\$13
January 1, 2024	\$14
January 1, 2025	\$15

# Minimum Wage – Tax Credit

- ❖ Employers with 50 or fewer full-time employees may claim a tax credit for a percentage of the wage hike
  - ❖ The credit decreases annually and will be phased out by 2027
- ❖ Tax credit percentages are 25% in 2020, 21% in 2021, 17% in 2022, 13% in 2023, 9% in 2024, and 5% in 2025
  - ❖ Qualifying employers with more than 5 employees will also receive a tax credit of 5% in 2026
  - ❖ Qualifying employers with 5 or fewer employees will continue to receive the tax credit of 5% in 2026 and 2027

# Minimum Wage Penalties

- ❖ 5% per month statutory penalty for violations payable to the employee
  - ❖ Increase from previous 2% penalty
- ❖ Employees may recover treble amount of wages owed
- ❖ An additional \$1,500 penalty is paid to the Illinois Dept. of Labor Wage Theft Enforcement Fund when underpayment by the employer is “willful, repeated, or reckless”
  - ❖ In addition to existing 20% payment to the Department for total underpayment
- ❖ Additional \$100 penalty for *each* employee impacted when employer does not maintain required payroll records

# Benefits

- ❖ Always state that in the case of a conflict, the plan document will govern
- ❖ Be careful not to overpromise and refer back to plan eligibility requirements
- ❖ If covered by ACA (50 or more employees) must offer health insurance to employees working 30 or more hours in a week

# ACA Contraceptive Mandate

- ❖ Trump administration rules provided employers with religious or moral objections to opt out of “Obamacare” contraceptive coverage
- ❖ Opt-out rules blocked by various courts
  - ❖ Held that the accommodation process already in place is not likely to be found to “substantially burden” employers’ religious exercise in violation of the Religious Freedom Restoration Act
- ❖ Supreme Court agreed to review

# Gender/Sex Discrimination

- ❖ In May 2019, the Trump administration moved to eliminate an ACA anti-discrimination policy covering transgender patients
- ❖ The proposed rule applies to ACA health insurance policies as well as services provided by many health care providers
  - ❖ It covers health insurance supplied by employers in the health care industry, since it encompasses businesses that receive federal financial assistance and focus on health care services
- ❖ Under the Obama administration, ACA insurance policies could not have blanket bans on covering drugs or procedures used for gender reassignment

# Health Reimbursement

- ❖ HHS, DOL, and Treasury expanded HRA rules
- ❖ **Individual HRAs (IHRAs)** may be offered as an alternative to traditional group health plans, and can satisfy the ACA mandate
  - ❖ Can be used to reimburse premiums for health insurance chosen by employee
  - ❖ Reimbursements provided to employees do not count as taxable wages
  - ❖ Amounts offered can vary based on age or number of dependents
    - ❖ Can contribute as little or as much as desired by employer to a particular class of employees
- ❖ Rules creates **Excepted Benefit HRAs (EBHRA)**
  - ❖ Permit employers to finance additional medical care, such as assistance with cost of copays, deductibles, or other expenses not covered by plan, even if the employee declines enrollment in the traditional group plan, subject to certain conditions

# Illinois Secure Choice Savings

- ❖ IL employers operating more than 2 years with 25 or more employees must **either**:
  - ❖ Offer a qualified retirement plan to all Illinois employees OR
  - ❖ Offer the Secure Choice program to employees
- ❖ Secure Choice = retirement savings program with payroll deduction (IRA)
  - ❖ Enrollees select from investment options; standard is 5%; may opt out
- ❖ Employers simply facilitate; they are not fiduciaries
  - ❖ No administrative fees
  - ❖ No required contributions
  - ❖ No ERISA obligations
- ❖ Graduated enrollment requirement: all employers must have registered by November 1, 2019
- ❖ Eligible employees: part-time, full-time, and seasonal workers (60 days +)
- ❖ Penalties for noncompliance are pending



# Other Friendly Reminders

- ❖ Don't over promise in your Handbook
- ❖ New Form I-9 required as of May 1, 2020
- ❖ Workplace Transparency Act impacts severance, arbitration, and confidentiality agreements and includes reporting requirements
- ❖ New joint employer rules effective March 16, 2020
  - ❖ Does the potential joint employer:
    - ❖ (1) Hire or fire the employees;
    - ❖ (2) Supervise or control the employees' schedules or conditions of employment;
    - ❖ (3) Set pay rates or methods of payment; and/or
    - ❖ (4) Maintain employment records?



# Thank You

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