



Ideas and Information for Human Resources Professionals

## EMPLOYEE RELATIONS

### When the C-Suite Gets Seriously Sick

Someone in the C-Suite of a company gets sick. I'm not talking about a cold or flu; I'm talking about a major, possibly even terminal, illness. Depending on the level of severity, what can the human resources department do to help communicate this information properly to the company's employees?

There will always be privacy concerns, but there are also requirements with the Securities and Exchange Commission (SEC) that mandate publicly traded companies to disclose information that may impact an investor's decision to buy or sell stock. A serious illness could be interpreted as something that needs to be reported to the SEC. Other than that, how much information should a C-Suite executive share with HR, when should he or she share it, and should they discuss any plans for a successor -- either temporary or permanent? On the HR side, how much of this should they release to the rest of the company?



Based on an article on *Human Resource Executive Online* titled, "[Disclosing Illness in the C-Suite](#)," when handled correctly, the disclosure of an executive's illness can do more than satisfy SEC compliance. It can reassure employees and investors that the company has a plan going forward, it can address important questions, and it can stop the almost certain spread of false rumors.

Sharing information today is common and rapid, which makes hiding a major illness next to impossible. Rather than letting the company's rumor mill disclose the information in a way that could be harmful to the executive and his or her family, detrimental to the company, and potentially completely false, it's better to have it come directly from a company representative. Current examples include Goldman Sachs CEO and Chairman Lloyd Blankfein, who sent a memo to employees and the SEC just one day after his lymphoma diagnosis. Contrast this with Apple CEO Steve Jobs who withheld his cancer diagnosis for an



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## EMPLOYER WEBINAR

**IRS Play or Pay Reporting: The Final Countdown**

**Tuesday, December 8, 2015**  
**2:00 p.m. ET / 11:00 a.m. PT**

The Patient Protection and Affordable Care Act's (ACA) reporting requirements are rapidly approaching for employers with group health plans or with 50 or

entire year. The latter example is cited as a textbook case of how not to handle this. The “doom and gloom” speculation of what was happening to Jobs was rampant both internally at Apple and with investors.

This type of speculation almost always leads to decreased employee morale and productivity, which is why HR should communicate information as quickly as possible. That being said, it’s up to the C-Suite executive to determine how much information he or she wants to divulge. The role of HR is to communicate how this is going to impact the company’s daily operations, whether someone will be temporarily assuming those responsibilities, and if the company has a succession plan in place if the executive is not able to return to work.

Because this type of news can disrupt the operations of a company, HR should continually provide updates and put them in a positive light. As it states in the article, you can’t draft this type of plan, especially a plan of succession, after a critical illness diagnosis is announced. This is something that must be thought of ahead of time in order to avoid the turbulent aspect it can produce. Regardless of this, HR also needs to emphasize the seriousness of the issue and that it must be handled with respect, sensitivity, and professionalism.

Hopefully, an HR department will never have to deal with this unfortunate experience. Striking a balance between the C-Suite executive’s privacy and everyone else’s need to know may be one of the most difficult things an HR department can face. This is why planning ahead can often provide that level of confidence during this time of corporate instability.

## TECHNOLOGY

### Access Denied

We’ve become a very connected society, but that doesn’t mean we want to share everything with everybody. Take, for example, your social media site (e.g., Facebook, Twitter, LinkedIn, etc.). Typically, you have a select network of individuals with whom you want to connect and share your life, thoughts, and opinions. But what happens when a current or prospective employer wants access to your social media account either as a “friend” or by demanding your login and password information?

In an article on the website of *Employee Benefit News* titled, [“Can employers access an employee’s social media account?”](#), it outlines how the law is changing in some states and when there’s an exception to request social media access. Some states do not allow an employer to ask an employee to

either friend them or give them access to their social media accounts. In addition, there are states that prohibit a company from asking an employee to log in to their social media site while a company representative is present and watching. Furthermore, the laws in some states also have language in them forbidding retaliation against an



more full-time or full-time equivalent employees. During 2015, the IRS released a variety of FAQs, as well as draft and then final instructions for employers who are preparing to file. This webinar will provide an overview of all of the information reporting guidance and instructions.

This webinar will:

- Review the 2015 final reporting forms and instructions, highlighting new information as compared to the 2014 forms and instructions
- Review the timing requirements for employers to submit forms to the IRS and to employees; as well as the new extension process
- Discuss the appropriate methods and best practices for providing employees with the forms
- Explain the difference in reporting requirements for small (less than 50 employees) and large (50 or more employees) employers, and self-funded versus fully insured
- Review line 22 of Form 1094-C and the four “certifications of eligibility” and when they apply
- Provide best practices on when employers merge
- Discuss how an employer reports on HRA coverage and stand-alone self-funded prescription drug coverage
- Provide best practices for controlled groups, including how to report when multiple members of a controlled group cover employees on one self-funded plan

This 90-minute intermediate level webinar will help employers determine the best practices for reporting in 2016.

employee who does not provide his or her social media access. Not all states have laws pertaining to employee rights with social media, but with those that do the law often varies. If a company has employees in multiple states, it needs to be especially careful, which is why it's always best to consult with an attorney. This newsletter article, as well as the website article, should not be taken as legal advice.

Granted, sometimes an employer has legitimate reasons to want to see what an employee is posting. Examples of these would include when an employee is speaking negatively about the company, using social media to bully or harass another employee, or posting company information that's proprietary and confidential. Regardless, the employer will need to be careful and consult an attorney before attempting to request or otherwise access an employee's social media account. Because of these reasons, there are often exceptions built into a state law that allow for internal investigations, violations of company policy, or illegal activities.

An important point to note is that many of these laws allow companies to review any information that's publicly available. So if a company is doing a simple Internet search of your name during the hiring process and certain information or photos happen to turn up on a public website, then all that is fair game.

## WELLNESS

### Be Prepared for the Next Big Storm

If you're a fan of the TV series *Game of Thrones*, then you know one of the more popular phrases is "winter is coming." And in many states, that means there's a great chance for blizzard-like conditions and being stuck indoors for prolonged periods of time.

Storm preparation, whether for a hurricane, blizzard, or other natural disaster is critical for surviving the event with minimal impact. Most people know the basics of filling your car's gas tank, ensuring you have fresh batteries in your portable weather radio and flashlights, and stocking up on groceries.

But are the basics enough? According to an article on *CNN's* website titled, "[Health checklist: What to buy in advance of the big storm](#)," the Federal Emergency Management Association (FEMA) says it's not enough. They recommend at least three days of water, nonperishable foods, and a few other items that will help keep you and your family healthy and safe during a weather emergency.

Let's start with the easy stuff. You'll need at least one gallon of drinkable water per person per day. This could vary depending on outside temperature, your age, and activity level. While you probably won't be jogging around the house, you could be shoveling snow, filling sandbags, or removing debris. A smart tip is to fill your bathtub ahead of time with water. This isn't to drink, but to fill your toilet tank in order to flush it.



[Register here](#) for the webinar. The presentation slides will be posted on the [UBA website](#) the day before the webinar. If you have any questions or need assistance with registration, please contact Karen Cheek at [kcheek@ubabenefits.com](mailto:kcheek@ubabenefits.com).

#### About the Presenter

[Kathleen R. Barrow](#) is a Shareholder in the Rapid City, South Dakota, office of Jackson Lewis P.C. She has designed welfare benefit plans and executive compensation arrangements, and has counseled sponsors and administrators of these types of plans, for 15 years.

Ms. Barrow actively participates in national coalitions of counsel that assist employers in defending audits of welfare and pension benefit plans. She advises clients and counsel across the country with regard to defined contribution arrangements that provide post-retirement health benefits to employees.

#### Certification

This webinar event has been submitted to the [Human Resource Certification Institute](#) to qualify for 1.5 recertification credit hours.

## IN BRIEF

### What Do You Mean You Haven't Gotten Your Flu Shot Yet?!

It's flu season again and that means it's time for everyone to get their annual flu shot. No, the shot you got last year isn't still effective because, according to an article on *The Huffington Post's* website in the *Health News* section titled, "[Why You Should Get The Flu Shot This Year, And Every Year](#)," influenza is a mutating virus and scientists hypothesize which strains will be the strongest for each flu season. That means the previous flu shot you received no longer works and, while you think

When it comes to food, both apples and oranges can last for weeks at room temperature. Dried and canned fruit, canned vegetables that don't need preparation, canned tuna, salmon, and sardines, peanut butter, and protein bars are all great to stock up. If you noticed the trend of canned foods, then it goes without saying that you will need a manual (not electric) can opener! Also, FEMA recommends having some "comfort food" on hand. Why? Because during a time of crisis, comfort food can have a calming effect. While you're out shopping ahead of the storm, don't forget to buy paper plates and plastic utensils. If there's no running water, you won't be able to wash and sanitize your dishes and you don't want dirty dishes piling up and attracting bugs or rodents.

The last of the easy stuff is a first-aid kit. Make sure it contains bandages, antibiotic ointment that hasn't expired, hand sanitizer (don't waste water by using soap), body wipes (since you can't shower), and dust masks.

A few items you may not have considered are a portable battery charger for keeping your mobile phone charged, a good book, playing cards, and board games to fight boredom and stress, and you'll also want some garbage bags. That last item isn't just for throwing away garbage and keeping your home sanitary; garbage bags can also be used as a rain poncho, to cover broken windows, to carry supplies or other items, and even to collect rainwater. Finally, you should also have some duct tape if for no other reason than just because duct tape solves everything.

that catching the flu won't happen to you, in all probability it will.

Because scientists make an educated guess (based on research, but still basically a guess) on which flu strains will be the most widespread, that means you could receive the flu vaccine and still get sick with the flu. That doesn't mean you shouldn't get the flu shot since it's better to be protected than do nothing at all. Plus, many health plans cover the entire cost of the flu shot as preventive care. Besides, being sick with the flu is miserable, and then you have to miss work (which might be unpaid), you have to buy medicine to alleviate the symptoms, and worst of all, you could make other people sick.

Fortunately, scientists are aware of this limitation of the flu shot and are working on creating a universal flu vaccine that would protect us against multiple strains of the virus for a longer period of time. A story published on *Time* magazine's website titled, "[Scientists Unveil 'Promising First Step' to Universal Flu Vaccine](#)," provides the details on this breakthrough, but cautions that it's not a universal vaccine that protects against all strains, but it can lay the groundwork for one that eventually will.

The current flu shot is one of the best forms of protection against getting the virus. Unless you are allergic to it, then don't delay, get vaccinated today!

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