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従業員から医師の診断書を提示された際の 注意点

7/10/2025

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Practices: 雇用／労働法／福利厚生

The scenario is common. An employee is absent from work. He/she submits a generic note to the company from a medical professional that states, “Your employee [insert name] is under my care. Please excuse [insert name] from work for the next 30-days.” No reason is given. Because you have no prior knowledge of any medical issue with this employee, you have no way of understanding the reason for the 30-day absence. Now what should you do?

Never accept a generic note from a medical professional. Depending on your company’s employee count and the locations (cities and states) where your employees reside, your company may have leave of absence and/or disability accommodation obligations under federal or state leave of absence or disability accommodation laws, as well as your own employee handbook policies. In addition, this absence may qualify as a short-term disability, which may entitle the employee to receive a percentage of his/her weekly wages as income replacement while off from work. Finally, if the employee submits another “generic note” that indicates that he/she requires another 30-days of leave (another common scenario), the leave extension may require the company to provide the employee and his/her dependents COBRA continuation paperwork. With the limited information provided by the generic note, the company simply does not have enough information to understand or comply with its legal obligations under the various leave, accommodation, and/or benefit laws.

To provide the employee with all the benefits and rights that he/she is entitled to receive and to ensure that the company complies with its obligations under federal and state leave, disability, and benefit laws, the company must request more complete information from the employee about the nature of the absence and of the limitations that the employee is experiencing due to a medical diagnosis. Keep in mind that the company is not seeking the employee’s medical diagnosis itself, such as cancer or heart trouble. By requesting additional information from the employee, the company can provide the employee with the appropriate leave of absence request and designation forms. If a disability accommodation is more appropriate, the additional information may enable the company to offer a different accommodation, thereby enabling the employee to perform the essential functions of his/her job and eliminating the need for a 30-day leave of absence.

By accepting a generic note from a medical professional without seeking more complete information from the employee, the company may be exposing itself to liability under federal or state leave of absence, disability accommodation, disability benefit, and/or COBRA continuation laws. In short, the company cannot “diagnose”

its obligations under various laws without receiving more complete information regarding the reason for the absence.

To provide employees with their various entitlements and to protect the company from potential liability for failure to act or failure to provide the appropriate forms, notices, or benefits, never accept a generic note from a medical professional. If you have any questions, please contact me or any member of the Employment, Labor, and Benefits Group.

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