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LEHIGH VALLEY **BUSINESS**

Are you on THE LIST?



LVB Lists are a comprehensive resource for the latest market data on the Greater Lehigh Valley business community.

Each print edition of Lehigh Business includes a list of the top companies or institutions in a particular industry or category, ranked by a statistical criterion. As a general rule, organizations ranking 1st through 25th appear in the printed lists, and at the end of the year, these lists are compiled and republished in The Book of Lists.

Participating with our lists is free!

If you'd like to be a part of LVB lists, contact us at listresearch@mesjassociates.com for more information.

Want a larger presence for your company in the weekly list or annual Book of Lists? Contact shuettner@bridgetowermedia.com

Wellness in the Workplace:

ARE YOU RECOVERY READY?



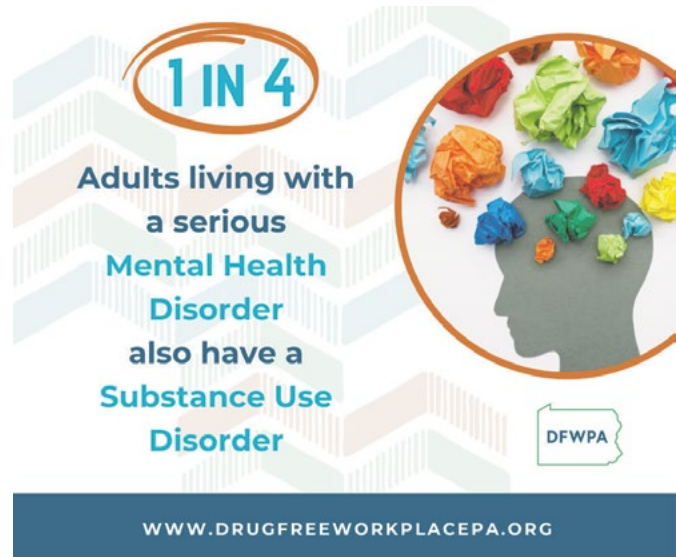
**Donna
Creager**

There is a movement. A movement of health and wellness in the workplace. If you don't believe it, Google "Wellness in the Workplace" and you will discover approximately 128,000,000 sites dedicated to this very subject. Articles, advertisements, advice all aiming to increase the health and wellness of your employees... your workplace. The question is why? It is clear that investing in the health and overall wellbeing of your employees will help you meet your bottom line. Healthy workers = Healthy companies.

According to Mental Health First Aid and the National Council for Mental Wellbeing, untreated mental illness in the workplace costs businesses \$105 billion each year due to lost productivity. 10.8 million

full-time workers have an untreated substance use disorder. But, less than 10 percent of employees feel their workplace is free of stigmas about mental health. Often times, stigma is the biggest barrier in getting help/treatment for mental health challenges and substance use challenges. Reducing stigma from a top down approach is step one in creating healthy workplaces. When management finds value in investing in their employees' health and wellness, it creates a healthy culture and is recovery ready. Because the hope of the matter is, people can and do recover from mental health and substance use challenges.

Employers can provide a significant role in employees getting help. With Recovery Friendly policies that encourage wellness, employers send a strong message to their employees and their community that they care about the physical, behavioral and mental health of those they employ. Solution-focused and recovery-informed practices should include: health care benefits with strong coverage for mental health and substance use treatment, resources such as an Employee Assistance Program, leave policies that encourage treatment, promotion of self-care, and education for



supervisors and staff on mental health and substance use.

When employers make wellness a priority a shift in culture begins to happen. Employees that may be struggling with stress, burnout or a mental health or substance use challenge will find safety and encouragement to get the help they need. Employee retention, morale, productivity and overall attendance will increase. The return of investment on the promotion of wellness and recovery will not

only have a fiscal impact but, will impact the lives of your employees beyond the workplace. It will have a positive and substantial impact on families and communities. Are you ready? Are you recovery ready?

To learn more on how to become a recovery ready and Recovery Friendly Workplace, visit Drug Free Workplace PA's website at dfwpa.org or email; info@dfwpa.org or call 717-454-3100.

Recovery happens and you can be the first step.



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Navigating the New Normal – Working Remotely

RESOURCES AND BEST PRACTICES FOR EMPLOYERS

Many companies were on the verge of having their staff suddenly return to the office after months of remote work, and being firmly settled into work-from-home routines, but Berks Homes took a step back to review the pros of continuing remote working where feasible, from both the company and the employee's points of view.

After a thorough assessment, we were very pleased with what we discovered.

Pros for the Company:

- Reduces the need for office space and lowers operational costs associated with an office
- Able to recruit qualified people who may live out of the area and are not willing to relocate
- Staff was as productive working from home, as they were in the office
- Employee retention

Pros for the Employee:

- No commute saves both time and travel expenses
- Less interruptions
- Gives the employee autonomy in scheduling their day
- Increases work/life balance morale

After discussing the pros of working remotely and seeing what a true benefit it was in certain situations, we created a temporary remote work policy based on the current needs, with the understanding that as the “new normal” keeps changing, our policy might be updated to change with it. An employee can request to work remotely if their job description or circumstance met the following 3 criteria:



Berks Homes Central Region-State College Team meeting at our Nittany Glen Community Model Home

- whose primary work location is an office, with little to no face-to-face interaction with internal and/or external customers
- whose work involves extensive use of computers, who require minimal supervision and have clearly defined measurable tasks
- as required as a reasonable accommodation under the American with Disabilities Act (ADA)

Approximately 1/3rd of our staff, (35 +/- employees as of this writing), met the established criteria and chose the flexibility to work from the comfort and convenience of their home. Almost all employees chose

a weekly hybrid schedule of remote and in the office, but we do have some that are working remotely full-time, locally and even out of state.

For those staff who did not meet the work from home criteria, we have reinforced our COVID protocols to provide a safe working environment.

With 1/3rd of our staff working from home, the question was, how do we keep them engaged and continue to feel like a part of the Berks Family? Like many other companies who found themselves in the same situation, we turned towards technology. Microsoft Teams was the biggest help to continue to have virtual,

“face to face” meetings, institute regular check-ins and also continue to have larger, in-person meetings throughout the year. We have found that this has worked superbly, keeping our remote workers engaged with the company.

Our biggest piece of advice when venturing into the remote working realm? Be clear with the expectations up front and put it in writing, by way of a policy that covers everything from work hours to how to get office supplies. This defines clear expectations and provides general guidelines and responsibilities for employees and ensures that each party is on the same page.



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LEHIGH
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Maintaining an Acquisition Mindset



Colin J. Keefe
Chair, Mergers &
Acquisitions, Fitzpatrick
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The world has changed rapidly over the past 18 months. The direct effects of the pandemic, federal stimulus, supply chain issues, labor shortages, looming inflation, and a potential overhaul of the tax code have combined to throw an incredible amount of change at businesses and their leaders. The challenges and upheaval facing the world today make it far more likely that any weaknesses in a business will be exposed, to the detriment of all involved. Employers that can't attract and retain workers in a tight labor market and inflationary wage environment will languish

for lack of talent. Businesses that can't source multiple cost-effective avenues of supply will wither for lack of product to sell. Companies that can't adapt to dynamic changes in demand for their products will die on the vine. Owners that can't navigate a changing regulatory and tax environment will find themselves falling behind peers who are more adept at working the system. In 2022 and beyond, any one of these weaknesses may be enough to sink a business that would have survived in a kinder, gentler pre-COVID world.

The coming years will require business leaders to proactively address any weaknesses they may have. This process of addressing problem areas, to the extent they can be addressed with internal resources, should be remarkably similar to what a business goes through when it is positioning itself to be acquired. Most businesses are never stronger than the day before they are sold. Alternatively, if a problem area cannot be addressed with internal resources, businesses should look to the acquisition market to add access to markets, scale,

and capabilities that they will need to survive. A business that constantly positions itself to be in the strongest possible position to acquire or be acquired will find itself looking more deeply, thinking more creatively, and holding itself to higher standards than it otherwise would.

For a mature business, the first step in taking a business to market is often shoring up the financial statements. Underperforming products and areas can be cut, expenses can be streamlined, collections can be improved, etc. New markets and products can be developed, and supply relationships can be solidified and made more cost effective. The best way to make a mature business attractive is to drive the bottom line.

For many startups and growth businesses, the first step in taking a business to market is ensuring that the business has the talent and intellectual property to trigger explosive growth once sufficient capital is raised. For these businesses, talent is often the main product they are selling.

For any business going to market, skeletons must be dragged out

of the closet and addressed. Potential liabilities, legal and otherwise, must be dealt with to ensure that there are no pitfalls waiting to be discovered by a buyer.

Finally, any owner looking to take a business to market has to understand and mitigate their tax burden. Any owner that isn't tax planning an exit strategy years in advance will wind up paying the price.

For businesses looking to acquire, the first step is to have a precise understanding of the company's needs. The most common cause of a failed acquisition is the lack of identification of specific capabilities that will be added that can't be produced internally. This can take many forms. A specific product or piece of intellectual property can often drive an acquisition. Collapsing a supply chain or otherwise ensuring access to supplies and suppliers can drive an acquisition. Access to new markets, especially internationally, can be the key factor in a deal. Acquiring talent that would otherwise be unavailable can be the primary motivation. Achieving needed scale can be the main



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factor. Any of the above can drive a deal, but in each of these cases it is essential to remember that most acquired businesses will be sold at a premium. An acquiring company must be confident not only that the acquisition addresses a critical need, but that the acquired business will integrate with the acquirer in a way that drives a sufficient return on investment on the premium price paid.

The next step in making an acquisition is ensuring that the combined business is on sound enough financial footing to be able to fund the acquisition. A

company must have generated the results and have the collateral to entice investors and lenders to give them funds. Furthermore, they must have demonstrated the leadership and internal controls to give investors and lenders the confidence that trust company leadership with their money.

Maintaining an acquisition mindset involves all of the above and more. Not coincidentally, all of the above are essential components of building and maintaining a strong business that can weather difficult times, even if it isn't involved in an acquisition.

A business that searches for any angle to drive the bottom line has a lot more room to absorb error and bad luck. A business that is constantly looking for new products and markets is positioning itself to succeed. A business that proactively manages their supply chain is positioning itself to survive. A business that attracts and retains top talent will have a huge leg up on its competitors. A business that addresses its potential liabilities won't be tripped up down the road. A business that can raise capital and debt as needed can

weather any storm this world can throw at it. And a business that understands its weaknesses and opportunities is always positioned to take action on them.

The world is changing in ways that are impossible to predict. Adapting to those changes is the challenge of our times. Business leaders that maintain an acquisition mindset, even if they have no intent to be part of a transaction, will find themselves in the best possible position to react to anything the post-pandemic world can throw at them, and not only survive, but thrive.

COVID-19 AND THE WORKPLACE:

AN OVERVIEW OF FEDERAL GUIDANCE ON EMPLOYER RESPONSIBILITIES & EMPLOYEE RIGHTS

There is no doubt that the workplace has evolved tremendously over the past few decades, shaped largely by the advent of personal computing devices and the expansion of the internet. Unexpectedly, the COVID-19 pandemic made its own imprint on the workplace that will require us to adapt and implement the necessary steps to ensure a vibrant and productive workplace for the future.

In the past year, multiple federal agencies, including the Equal Employment Opportunity Commission (“EEOC”) and the Occupational Safety and Health Administration (“OSHA”) have issued guidance that address requirements and best practices in the workplace. These guidance documents are updated on a regular basis and incorporate a science-based approach in conjunction with existing federal laws and regulations. An overview of the key guidance documents regarding employer responsibilities and employee rights in relation to COVID-19 is provided below.

Path out of the Pandemic: President Biden’s COVID-19 Action Plan

On September 9, 2021, President Biden announced a COVID-19 Action Plan – the Path out of the Pandemic. The Plan is a comprehensive, six-pronged, national strategy to combat COVID-19 and includes protections for the economy. The

six prongs are:

- Vaccinating the Unvaccinated;
- Further Protecting the Vaccinated;
- Keeping Schools Safely Open;
- Increasing Testing & Requiring Masking;
- Protecting Our Economic Recovery; and
- Improving Care for those with COVID-19.

On the same date, the President signed Executive Orders that addressed vaccinations for federal workers and contractors and directed OSHA to draft an Emergency Temporary Standard (“ETS”) directed at private-sector businesses with 100 or more employees to:

- Mandate vaccination or weekly proof of negative test results; and,
- Provide paid time off for workers to get vaccinated or to recover if they suffer post-vaccination effects.

On October 12, 2021, OSHA advanced the ETS for final White House review. Following a swift review by the White House’s regulatory office, the ETS was recently filed in the Office of the Federal Register on November 4, 2021, and requires employers with 100 or more employees to:

- Require vaccinated employees to provide proof of vaccination by January 4, 2022;

- Ensure unvaccinated employees wear a mask by December 5, 2021, and produce weekly negative test results by January 4, 2022, and,
- Provide paid time off to employees to receive the COVID-19 vaccine, including sick leave to recover from any side effects by December 5, 2021.

The ETS provides additional requirements and guidance, including requirements related to payment for testing and penalties for non-compliance.

Workplace Safety: Guidance for Federal Contractor and Subcontractors

On September 24, 2021, following the President’s announcement of the COVID-19 Action Plan and the Executive Order on Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, the Safer Federal Workforce Task Force issued \COVID-19 Workplace Safety Guidance (the “Guidance”) for covered federal contractors and subcontractors. The Guidance is intended to ensure compliance with specified COVID-19 workplace safeguards at work sites with individuals working on or in connection with a Federal Government contract or contract-like instrument. The requirements apply to new contracts awarded on and after October 15, 2021 and to contracts

before that date with options to extend.

The Guidance sets forth workplace safety protocols, including:

- COVID-19 vaccination of covered contractor employees, except for employees that are entitled to an accommodation;
- Compliance by covered contractor employees and visitors with masking and physical distancing; and,
- Designation by covered contractors of a person to coordinate COVID-19 workplace safety efforts.

The Guidance also includes Frequently Asked Questions addressing vaccination policies, scope of the requirements, and compliance with the requirements.

What You Should Know About COVID-19 and Equal Employment Opportunity Laws

On October 13, 2021, the EEOC issued updates to its Technical Assistance Questions and Answers Guidance (“EEOC Guidance”). The EEOC Guidance addresses the following key areas:

- Disability-Related Inquiries and Medical Exams in the employment context;
- Confidentiality of Medical Information;
- Hiring and Onboarding;
- Reasonable Accommodation;
- Pandemic Related Harassment



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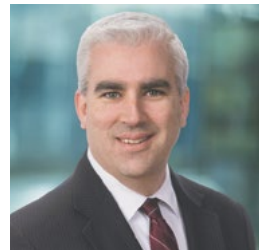
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Due to a Protected Category;

- Furloughs and Layoffs;
- Return to Work;
- Age, Caregiver, Pregnancy; and,
- Vaccinations.

Courts generally defer to the EEOC in deciding a claim, such as a claim that an employer failed to provide an accommodation to an employee. On that basis, employers are encouraged to be familiar with and implement the EEOC standards. Key provisions include:

- Keeping confidential any medical information related to COVID-19;
- Engaging in a dialogue with an employee that requests a COVID-19 related accommodation including requests based on medical or religious reasons; and,
- Responding to pandemic-related harassment.

The EEOC Guidance also provides that federal equal employment opportunity laws do not prevent an employer from requiring all employees physically entering the workplace to be fully vaccinated

against COVID-19, subject to the reasonable accommodation provisions of Title VII and the ADA.

On October 25, 2021, the EEOC added a new section concerning vaccine mandates to its Technical Assistance Questions and Answers Guidance and noted that “objections to COVID-19 vaccination that are based on social, political, or personal preferences, or on non-religious concerns about the possible effects of the vaccine, do not qualify as “religious beliefs” under Title VII.” If an employee requests a religious exemption to a vaccine mandate in the workplace, the employer may make a limited factual inquiry to verify the religious belief on an objective basis.

Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace

OSHA has also issued its own set of guidance addressing safety practices and standards, including updates to its Protecting Workers guidance. Under OSHA, employers are responsible for providing

a safe and healthy workplace free from recognized hazards likely to cause death or serious physical harm. OSHA standards related to COVID-19 include employers being responsible to:

- Facilitate employees getting vaccinated;
- Instruct workers who are infected or who have close contact with someone who tested positive and all workers with COVID-19 symptoms to stay home from work;
- Implement physical distancing in all communal work areas for unvaccinated and otherwise at-risk workers;
- Provide workers with face coverings or masks; and,
- Train workers on COVID-19 policies.

The OSHA standards also include best practices for workplace ventilation systems, cleaning/disinfecting and record keeping. Under OSHA, employees are protected from retaliation for raising workplace health and safety concerns related to COVID-19 and employers

are encouraged to provide an anonymous process for workers to voice safety-related concerns and to implement anti-retaliation policies.

At the time of print, a federal appeals court has granted an emergency stay prohibiting enforcement of the ETS and several other lawsuits have been filed. The timing of rulings in these cases is unclear. Nevertheless, employers should begin preparing policies and procedures that comply with existing and forthcoming guidance from the various agencies addressed above. Employers should also prepare for employees who refuse to comply with legal requirements and prepare an appropriate response, which may include discipline, up to and including termination.

White and Williams LLP's team of employment attorneys are closely monitoring these developments. If you have questions about how to ensure that your policies comply with workplace and other applicable laws, visit whiteandwilliams.com or contact the authors.

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