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NACDS looks for ways to reduce drug costs

NACDS' leadership brings pharmacy operators and state officials together to work out tough Medicaid issues.

Medicaid agencies want to decrease drug expenditures and continue to target pharmacy reimbursements to achieve this, says the National Association of Chain Drug Stores (NACDS). NACDS says, "It's time to look at Medicaid in a new way. There are alternatives to cutting pharmacy reimbursement that work."

Last month the Association pulled together state legislators, state agency representatives and local chain representatives to discuss what some states are doing and what action to take in the future.

David Viele, from the Michigan Department of Community Health, asked the group, "How would a business look at this? Challenge your programs to be competitive." That's just what Michigan did when it implemented its Preferred Drug List in April 2002. Since then, the state has saved \$16 million without reducing pharmacy reimbursement.

Florida has also initiated cost-saving practices. George Kitchens, with the Florida Agency for Health Care Administration, says the state uses a new four-brand limit and prior authorization program that has saved the state 2.2 percent of its overall Rx drug expenditures this year, a \$123 million savings without decreasing pharmacy reimbursement.

Dr. Stephen Schondelmeyer, professor of economics from the Prime Institute at

the University of Minnesota, emphasized that drug expenditures in Medicaid are rising because of the increased use of prescription medications, drug inflation and the substitution of newer, more costly drugs, and not because of the reimbursement paid to pharmacies.

Dr. Michael Johnsrud, from the Center for Pharmacoeconomic Studies at the University of Texas, said that the answer for states facing Medicaid shortfalls isn't to reduce pharmacy reimbursement. Instead, he says, states need to institute measures that will better manage drug costs over the long term.

NACDS says this Conference, held in San Diego, CA, is a springboard for exploring innovative ways to reduce drug costs without targeting the already razor thin profit margins of community pharmacy.

Nevada Assemblywomen Ellen Koivisto, chair of Human and Health Services (HHS), and Kathy McClain, vice chair of HHS, and Liz MacMenamin of RAN, represented Nevada at the conference.



Source: NACDS Issue Update

Seen and
Noted



New Years Resolutions

A tradition since the Babylonians

Do you or do you not make New Years resolutions? If you do make them, what do you do with them?

A recent survey found out this about New Years resolutions. Of those surveyed:

- 63% kept their top resolution at least two months.
- 84% vowed to start something, like exercise. Only 20 % vowed to give up something.
- 37% promised to get more exercise.
- 23% promised to devote more time to study or work.
- 13% vowed to eat better.
- 7% wanted to reduce use of tobacco, alcohol, caffeine or other drugs.

Only 40% who achieve their top resolution do so on the first try. The rest try over and over, and 17% of them succeed after more than six attempts.

by Elizabeth Miller, Alan Marlatt/
abcNews.com.

Source: "Quick Bites" by Sam Geist;
800-567-1861; www.samgeist.com.

Remember to display Federal Minimum Wage poster

Employers must display the Federal Minimum Wage poster where employees can readily see it. Posters are available on the Internet at <http://www.dol.gov/dol/esa/public/minwage/main.htm>.

The minimum wage of \$5.15 per hour applies to:

- Employees of enterprises that do at least \$500,000 in business a year.
- Smaller firms where employees are engaged in interstate commerce or in the production of goods for commerce, such as employees who work in transportation or communications or who regularly use the mails or telephones for interstate communications.
- Employees of federal, state or local government agencies, hospitals and schools, and generally to domestic workers.

There are exceptions to the minimum wage such as for employees under 20 years old. Employers can pay them \$4.75 per hour for the first 90 consecutive calendar days with an employer.

Overtime pay must be at least 1-1/2 times the regular rate of pay for all hours worked over 40 in a workweek.

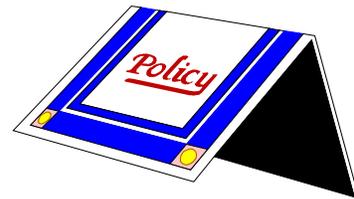
Where state law requires a higher minimum wage, the higher standard applies.

The Wage and Hour Division of the U.S. Department of Labor (DOL) has a reference guide to the FLSA, which explains how the law applies. Access it on DOL's website, www.dol.gov, or write to the nearest Wage and Hour Division office.

Terrorism insurance backstop

Retailers can breathe a little easier now that a terrorism insurance bill has been signed into law. It creates a federal backstop program that will provide up to \$100 billion in federal funds over three years to pay 90 percent of the insurance industry's terrorism claims above \$10 billion in the first year, \$12.5 billion in the second and \$15 billion in the third year.

The agreement includes a broad preemption of state terrorism insurance exemptions and nullification of such exclusions in existing contracts, coverage for business



interruption losses, targeted litigation reform and the inclusion of self-insurance and workman's compensation.

The agreement does not include a complete bar on punitive damages. Legal reform provisions include creating an exclusive federal cause of action for terrorism-related claims and consolidation of claims in federal court. It also excludes the federal government from paying judgments for punitive damages.

FTC wants national do-not-call registry

A national do-not-call registry could eliminate about 80 percent of telemarketing calls, says Timothy Muris, chairman of the Federal Trade Commission (FTC). It could even block calls from companies and industries that the FTC doesn't regulate such as banks, insurance and long-distance companies.

The national registry is part of the FTC's proposal to modify the Telemarketing Sales Rule, which protects consumers from unwanted and late-night telemarketing calls and prohibits deceptive sales calls.

Consumers already have several methods available to stop telemarketing calls. A simple one is to ask the telemarketer to put you on the do-not-call list. However, that only eliminates such calls by one telemarketing call at a time. Consumers in 27 states can sign on to state-regulated do-not-call lists, which help eliminate a certain percentage of calls. Only 28 percent of consumers on state lists say they receive unsolicited calls compared to 52 percent who are not signed up. (Nevada does not have a state do-not-call list.)

Consumers can also buy products like the TeleZapper, made by the Royal Appliance Manufacturing Company, that block telemarketing calls, or pay for intercept call service from their telephone company.

The proposed rule change makes exemptions for charities, politicians, telemarketers conducting surveys or market research and any firm that has an "existing business relationship" with a consumer, although consumers can specifically request that those companies not call them.

If the Rule changes are accepted, consumers will be able to register online or by calling a toll-free number. The agency expects some

60 million Americans to sign up for the registry. Investigators will be assigned to examine complaints submitted by consumers on another toll-free number. The FTC could fine telemarketers up to \$11,000 for each banned call.

U.S. Representative W. J. Tauzin (R-LA), chairman of the house Energy and Commerce Committee, says he intends to block the list's funding, which could throw the FTC's plans into 2004.

Telemarketing companies say that consumer criticism is unwarranted, citing the fact that the industry accounted for \$275 billion (four percent) in consumer sales last year. If the rule is accepted, the direct marketing industry will probably take the matter to court.

Other provisions include:

- Delete the provision allowing telemarketers to obtain express verifiable authorization by confirming the transaction in writing prior to submitting the customer's billing information for payment.
- In sale of credit card protection, require disclosure of legal limits on a cardholder's liability for unauthorized charges.
- Prohibit misrepresenting that a consumer needs offered goods or services in order to receive protection he or she already has under 15 U.S.C. § 1643 (limiting a cardholder's liability for unauthorized charges on a credit card account).
- Clarify that the use of predictive dialers resulting in dead air violates the Rule.
- Clarify that facsimile transmissions, electronic mail and other similar methods of delivery are direct mail for purposes of the direct mail exemption.

Economic census goes to the Internet

When the federal government's economic census is taken this year, those who receive the form will, for the first time, have the option to respond over the Internet.

Every five years the federal government sends businesses a questionnaire as part of the economic census. It "assures the accuracy of the statistics we rely on for sound economic policy and for successful business planning," says Alan Greenspan, chairman of the Federal Reserve.

This year over 5 million businesses will receive the questionnaire. The answers are kept confidential, but the Census Bureau will release first results in early 2004.

More than 1,000 industries will receive the forms. This year, the survey will measure e-commerce for all industries, not just e-commerce for the retail sector and for business-to-business transactions.

Update your anti-virus protection

Anti-virus software may not automatically update itself even if that's what your sales rep has told you. To keep your information safe, business owners should regularly check to make sure their anti-virus software is current.

One way to check what version of software you have is to go to the "Help" pull-down menu and choose the "About" command. Note the version that's on your computer, then go to the software website to find out what version is the latest available.

Are you out of date? Then it's time to protect your system, so download now. You can usually download the latest version from the maker's website.

Retailing woes easily fixed with a little simple customer service training

By Nancy Friedman, the Telephone Doctor®

Not all retailers are notoriously poor on giving good service, but there are some who could improve their customer service with some simple training.

Some retailers blame bad service on the part-time help, saying that part-timers are just that, "Part-Timers" who don't want to take responsibility or ownership. Most are young kids. They just want to take the money and run. They can't wait to get off work.

In my own experience in retail customer service training, I've found that very few retailers have any sort of new employee orientation on customer service or telephone skills. They all have product training, but when it comes to customer service training, most admit that the only training they give new employees is tell them, "Smile and be nice."

Young, bright individuals are coming from schools where they teach math, language, history, and science. In most schools retailing customer service is not in the curriculum—and probably won't be for a long time. So,

Here's a customer service training program for your company that's EASY to apply.

— The Telephone Doctor®

who's responsible for training these people? If you're an owner or manager, just look in the mirror. That's who's responsible. YOU!

"Yes, Nancy, but I'm so busy doing other things. There's just no time for that type of training.

It should have been taught in their homes," say some. "That's not my job," I hear from managers and owners. "We're just too busy to stop and train."

Well...Telephone Doctor has good news for you! Here's a customer service training program for your company that's EASY to apply.

It's up to each and every manager and owner to do some sort of customer service training. Just putting an employee on the floor and telling him or her to "be nice" or "tell everyone to have a good day," is NOT customer service training. In person or on the phone, following these Telephone Doctor® ground rules will make your store the one the customer wants to come back to. It will give you the competitive edge.

Ground Rule # 1 - Greet Customers First

Make it a game. If a customer says "hello" first, you lose. It's amazing how often you can go into a store, any store, and walk around, touch things, look at prices, and walk out, all without anyone saying anything to you. The minute a customer walks into the store, the sales staff must say hello first. It's his or her job. It's not the customer's job to do it. That first friendly hello sets the stage to make sure the customer is in the right place. And if your staff is simply saying, "Can I help you with anything?"—as they say in the *Sopranos*, FAGETABOUTIT. "Can I help you with anything?" is weak and ineffective. It's better to say, "So glad you're here. What in particular are you looking for that I can help you with?" That will go much further than "Can I help you?"

Ground Rule # 2 - Smile

Right! It's that simple. Make smiling on the job a condition of employment...and grounds for termination. Tell them in the interview process that, "We smile here." It's a simple statement and a powerful sales tool. Don't relent on this one - ever! I recently heard a story about a young man, about 16, who quit his job two weeks after he started. When his folks asked him why, his answer was, "They drove me crazy. They wanted me to smile all the time."

Ground Rule # 3 - Enthusiasm Counts

Dale Carnegie said it first. And my father said it second. He used to tell me, "Enthusiasm is a disease - let's start an epidemic." And how true that is. When customers bring something to the counter for you to

ring up, get excited. Tell them what they purchased is pretty, cute, or useful. Let them know you care. When the customer sees, feels and hears your enthusiasm, you'll ring up a lot more sales. And your enthusiasm is a great setup for up-selling or cross-selling. ("This piece is wonderful. Did you happen to see the matching item?")

Ground Rule # 4 - Don't Point - Go Show

How many times have you walked into a store, asked for something, and the sales person either just nods you to the item or only points to the direction without saying anything? When and if possible, WALK with the customer to the area she needs. If that becomes impossible, cheerfully direct the person to what she needs,

[Customer service continued on page 5 ...](#)

Customer Service

continued from page 4

and give clear, easy and most importantly, friendly directions. "Aisle 3, on your right," is clear and easy but not very friendly. This is FRIENDLY: "The New widgets? Sure, we have them. They're great. You'll find them right past the flower section in aisle 3. It'll be on your right-hand side. Let me know if you're not able to locate them, and I'll get someone to help you."

Those are clear, easy and FRIENDLY directions. Pointing is plain rude. (Ask any waiter to direct you to the restroom and 100% of the time, he points. It's possible to give clear directions to that area, too.)

Ground Rule # 5 - Please, Thank You and You're Welcome

Yes, these are still the most favorite words to all customers. I use to be embarrassed in my training programs to remind the attendees to use those words. But every time I'm out shopping, I'm reminded that it needs to be taught. It still surprises me because those are the very first words a parent teaches a child. There's not a 3-year-old who hasn't gotten a piece of candy and then been told by his parent, "Tell the lady thank you, Bobbie - go on - Bobbie, you can say it. Tell her thank you." Many parents won't let the other person go until the child has said "thank you." We spend hours teaching them those words, and then at age 18, what happens?

Ground Rule # 6 - Pretend It's You

Have your people make believe it's them walking into the store trying to purchase something. How would they like to be treated? Tell them every customer will go away thinking one of two ways, either, "Hey those guys were great," or "Hey, I'm never gonna go back there again." And if

your sales people think that it's not their problem, tell them to think again. If the customers don't come back, you close up, and they're out of a job. Then it is their problem. Simple.

Ground Rule # 7 - Go Back Through Ground Rules 1 - 6

You cannot go over these items too many times. If you, as a business owner/ manager, do not currently have some sort of customer service training program for your staff in place as you read this, tear this out and read these items to your staff before the store opens. And if you can, read it again, at night, when you've closed the doors. You cannot over train. Post this article in an area employees check, like a bulletin board. Put this article in their paycheck. Have them read this aloud. They need to know you are serious about this topic. It's NOT just a passing fancy.

Retailing is challenging in the best of times. In these demanding times, it's even more so. However, in so many cases, it's self-imposed. To merely open the doors of your store and put someone behind a counter isn't good retailing. Good retailing is caring, about your customers and about each other. It's having a customer service training program for your staff. It's about "making it happen."

Nancy Friedman is president of Telephone Doctor®, an international customer service training company based in St. Louis, Missouri. Nancy is a featured speaker at association meetings and corporate gatherings around the world. She has appeared on OPRAH, The Today Show, CNN, Good Morning America, and CBS This Morning. Her articles have been published in the *Wall Street Journal*, and *USA Today* as well as hundreds of other radio, TV and print outlets. For more information, log onto the Telephone Doctor® website at www.telephonedoctor.com or call 314-291-1012.

Evaluate customer service with a mystery shopper

Have you ever considered using a secret shopper to help keep your customer service at its best? A secret, or mystery, shopper is hired to act as any normal customer, then evaluate the service he or she receives from your personnel. Big or small, all businesses can benefit from using mystery shoppers to help fine tune their customer service.

Hiring a mystery shopper doesn't mean you have to make the person a regular employee. You can simply contact a company such as TrendSource, a firm that provides mystery shopping service.

Rodney Moll, owner of TrendSource with his brother, Kevin, says that corporations, franchises, small businesses or any business that interacts with the public, can benefit from hiring a mystery shopper.

TrendSource consults with a business to set up its evaluation needs, and mystery shoppers are trained to evaluate each job by criteria that the company specifies. The shopper not only evaluates the specific criteria, but looks at other factors that most customers would notice, such as the neatness of the store and its surroundings. The shopper then provides the hiring company with a thorough evaluation of the experience.

Source: *The Costco Connection*, January 2003

Scary closets?

*Call the closet
fixers*

•
**California
Closets**



Clothing, toys and more fit easily into this "infant" closet.

Have you ever walked into your closet and pulled out a just-pressed shirt to find that it has more wrinkles in it than a Shar-Pei? Do you think moving would be easier than cleaning out your closet? If so, maybe you need to call Scott Shamblen, part owner of California Closets in Reno.

The staff at California Closets helps organize the disorganized by creating beautiful, workable and usable storage space. What Shamblen and company will do is find out what you want a space to be and to look like, then take that notion and turn it into a design to solve the problem.

California Closets in Reno has been in business for 17 years and has a resume of over 7000 organized spaces. The new owners, Shamblen, David Wilhoyte and Art Winston, took over in April 2002, and plan on adding to the numbers with

satisfied customers.

Shamblen says their biggest challenge as new owners has been to train employees in a customer service style that emphasizes service. The company has the design talent and the ability to finish a project in short time, he says, but they want to build a long-term relationship with the customer. "We're a tool to help them design what they want." To do that, California Closets needs to find out the customer's "ultimate goal." They do that by listening.

Shamblen says every job starts with a free consultation at the site. For a simple closet, it might only take an hour, but whether it's an hour or a day, by the end of the meeting, the customer will see a design pulled together according to his or her specifications along with a quote for the cost.

Shamblen says they help custom-



Linens fit neatly in this utility closet.

ers find the best result for the money they want to spend, and present them with a complete package at the end of the consultation. It takes about two weeks from the customer's consent to a finished product.

"We can increase storage capacity by 30 to 40 percent," Shamblen says. What they can't do is work miracles. If your stuff could fill 10 closets, but all you have is one, then it's time to make choices.

Shamblen says there's a trick to keeping a workable, neat closet.

"We tell the customer to put hanging clothes back in the closet with the hanger facing the wrong way. If in six months the hanger is still facing the wrong way, get rid of the item."

California Closets is best known for clearing closet clutter, and Shamblen says they get the most requests for closets and garage systems.



Clothes are easy to find with the reach-in closet.

[California Closets continued on page 7...](#)

California Closets

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They design a variety of spaces, though, like pantries, craft rooms and entertainment centers. They can even install a Murphy bed and make it look like a custom piece of furniture.

Custom designing is their forte. Shamblen has a woodworking background and likes the fact that the company can build original designs. He says it's what sets them apart from most of their competitors—that and the fact that the life-long warranty they give on the final product means that five or 10 years

down the road, they'll be there.

The company can order standard materials from the franchise corporation, but because they have the ability to custom design, they can build to suit the space. They've even worked a system into a round closet.

If your biggest fear everyday is opening your closet door, or if your favorite thing not to do is organizing, you may just want to enlist the help of California closets. They make solutions easy and can put you on a path to happy organization.

Produce conference offers solutions

The Retail Produce Solutions Conference (RPSC) is June 7 - 9, 2003. Are you ready? If you haven't taken the first step, organizing your team, start now and you'll be well-prepared to take advantage of all that's offered at RPSC.

Every year, the conference pulls together supply-chain teams of retailers, wholesalers, growers, suppliers, commodity boards, marketers and allied organizations to discuss operational and supply chain issues, share information and generate solutions to industry challenges. The event is produced by the Produce Marketing Association (PMA) and sponsored by the Food Marketing Institute (FMI) and United Fresh Fruit and Vegetable Association (UFFVA)

There are five important steps that your company needs to take to get the most out of the conference. PMA spokesperson says they line up like this.

- 1) Start now by recruiting team members so you're set to register early for the popular conference.
- 2) Put PMA to work helping you organize an effective team. Either visit the website, www.pma.com, or contact Dianna Garvey at dgarvey@mail.pma.com.
- 3) Draft the right people for your team. PMA recommends teams of 8 - 10 people with no more than two retailers and the rest a mix of distributors, wholesalers, growers, shippers, marketers and other supply chain partners.
- 4) Designate a team captain. This should be someone who will informally be your team's leader prior to and during the conference.
- 5) Finally, communicate. PMA says that in order to get the most out of the RPSC, be sure your team communicates with one another prior to the conference.

Register early to save your space. For more information, visit the website.

• Seminars •

February - 2003

FMI MARKETECHNICS®

February 23 - 25, 2003
Dallas, TX

Contact: 202-452-8444/www.fmi.org

NACS Leadership Assembly

February 24 -27, 2003
Naples, FL

Contact: 703-684-3600

March - 2003

FMI Distribution Conference

March 16 - 19, 2003
Palm Springs, CA

Contact: 202-452-8444/fmi@fmi.org

FMI Advertising Marketing Executive Conference

March 30 - April 1, 2003
Las Vegas, NV

Contact: Elizabeth Newton @ [202-452-8444](tel:202-452-8444) or www.fmi.org/events

April - 2003

nacs.tech 2003

April 28 - 30, 2003
Dallas, TX

Contact: 703-684-3600

June - 2003

PMA Retail Produce Solutions Conference

June 6 - 9, 2003
Monterey, CA

Contact: www.pma.com or Dianna Garvey at dgarvey@mail.pma.com

NACDS Marketplace 2003

June 7 - 10, 2003
San Diego, CA

Contact: 703-549-3000/www.nacds.org

Abbreviations

FMI • Food Marketing Institute

IMRA • International Mass Retail Association

NACS • National Association of Convenience Stores

NACDS • National Association of Chain Drug Stores

PMA • Produce Marketing Association

Exempt or nonexempt?

Guidelines for classifying employees under the FLSA

Are you properly identifying employees whose overtime and minimum wage requirements are affected by the Fair Labor Standards Act? The Food Marketing Institute (FMI) reports that litigation for misclassifications is on the rise. For example:

- In December 2000, a supermarket chain in the Northeast agreed to settle for \$3 million a private class action and state suit brought by delivery workers who alleged they were denied overtime and paid at a rate below minimum wage.
- In 2001, U-Haul reached a multi-million dollar settlement with approximately 475 managers who filed a class action alleging that the company improperly classified them as exempt employees in violation of state overtime laws.

What duties do your employees or groups of employees perform? Carefully consider this question before classifying them as exempt or nonexempt.

Eligibility for overtime pay and minimum wage affects white collar workers. The FLSA has four classifications for this group – executive, administrative, professional and outside salesman. Salary also comes into play when determining exempt or nonexempt status.

Salary Basis

To qualify for the executive, administrative and professional exemption, the employee must be paid on a salary basis – a predetermined salary that is not subject to reduction based upon the quality or quantity of work performed. This is a tricky area because docking pay due to a lack of work may result in a loss of the exemption. For instance, if a manager doesn't show up for work, docking him for a day's pay may convert his position from salaried to hourly.

Partial pay docking is permitted for full-day absences due to illness where they are not yet eligible for

or have exhausted sick leave benefits or for leaves taken under the Family Medical Leave Act.

Executive Exemption

The executive exemption covers employees with supervisory and management responsibilities, but is narrowly applied. The employee's duties, not his or her title, are controlling. The basics of the executive exemption are:

- \$250 plus per week salary
- Supervise 2 or more full-time employees per week
- Over 50% of job duties supervisory and/or management related
- Exercises discretion and independent judgment

In reviewing "management" positions, the employer should always examine whether managing is the primary duty of the employee. In many workplaces, managers pitch in and help out their subordinates. This can be a problem if, for example, a manager spends more than forty percent of his time helping out by stocking shelves, providing customer service or cleaning up a department; the "executive" exemption may not apply. Employ-

ers must also take a close look at the "management related" job duties of the employee. Generally, "management related" means that the employee is relatively free from supervision and is in charge of and has as primary duty the responsible management and direction of at least two employees. Management duties include interviewing, selecting, training, disciplining, directing and planning work and adjusting rates of pay

Administrative Exemption

Individuals employed in an administrative capacity who make at least \$250 per week may be exempt. This exemption is narrowly defined and does not mean that all office workers are exempt. To qualify under the exemption, the employee's "primary duties" must consist of office or non-manual work directly related to management policies or general business operations of the employer and its customers. The performance of the work must require the exercise of independent judgment and discretion. The basics of administrative exemption are:

- Position requires high level of discretion and independent judgment
- \$250 plus per week salary
- Over 50% of job duties are administrative (non-manual).

Professional Exemption

Employees who make at least \$250 per week qualify under this exemption if their primary duties (50 percent or more) consist of

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FLSA

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work that: (1) requires knowledge of an advanced type in a field of science or learning; and (2) requires the consistent exercise of discretion and judgment.

Computer systems analysts, computer programmers, software engineers and other similarly skilled individuals may qualify for this exemption if they are paid \$27.63 or more per hour. Help desk personnel or personnel doing hands-on computer software or hardware work do not meet this exemption. In determining professional duties, the employer should consider the following:

- Knowledge must be advanced
- Knowledge must be in a field of science or learning
- Knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction – 3 years pre-professional study plus one year professional course work – at least a bachelor's degree.
- Training courses consist of medicine, law, nursing, teaching, accounting, engineering, architecture, etc.

The professional exemption includes either a salary or fee-basis payment. If the employee is paid on a salary basis, then he or she must receive a predetermined salary not subject to reduction based upon quality or quantity of work performed.

Outside Sales

There is no salary basis or salary requirement for outside salesmen. However, the salesmen must be customarily and regularly

engaged away from employer's place of business or an in-home office in making sales. The employee must perform this work or work directly incidental to outside sales 80% of their time. The outside salesperson can be paid a salary or commission, or any combination of the two.

Enforcement

The US Department of Labor enforces the minimum wage and overtime requirements. The Wage and Hour Division handles investigations and the Office of Solicitor handles prosecutions. If violations are proven, damages are available in the amount equal to the amount owed under the Act for wages. Civil penalties may also be assessed of up to \$1,100 per occurrence for repeat and willful violations. Employees may also bring private suits, including class actions. The lawsuit must be filed within two years of the non-payment. If the violation was willful, the employee has three years in which to file his lawsuit.



Employers Beware: Unauthorized Overtime on Non-Exempt Employees

Even where a non-exempt employee's overtime is not authorized, the employer may still be liable for payment under the FLSA. The question is: does the employer know or have reason to believe that work is being performed? If the answer to this question is yes, even if overtime is ordinarily prohibited or must be approved in advance, the time is compensable.

There are no exceptions under the FLSA for employees who believe they are doing their employer a "favor" by coming in early or working during lunch and not putting in for overtime.

Source: FMI Labor Information Service, August 2002 issue. Editors: Joseph W. Ambash and Lisa J. Damon

Practical Advice

The number of collective actions under the FLSA eclipsed the number of EEO-type class actions filed in federal court for the first time in 2001. In this climate, employers should be particularly concerned about liability and should take steps to minimize risk. An annual audit can serve as an effective preventative measure. During the audit, employers should analyze the actual duties performed by each employee before making a decision to treat a particular individual or group as exempt. Training managers on the FLSA exemptions and requirements will also help catch any classification "mistakes" or other problems early so they can be remedied before back pay and other damages accrue.

Take Control of Your Workers' Comp Cost

Take Advantage of...

- ✎ Greater management control that cuts overhead costs
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- ✎ Investigation and defense of claims
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• Membership in RAN Required •

Important Information for SIG Members

The NRS governing self insured groups requires notifying members of all new members to the Group. New members for NRNSIG as of January 1, 2003, are listed below. For a complete member list, please call RAN at 775-882-1700.

Please Note: Due to the many new members added each month to NRNSIG, we are able to list only new members on this page. For information on NRNSIG or NCNSIG, please see information below.

NRNSIG

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Acclaim Automotive & Fleet Repair
Acclaim Import Service & Repair
Acclaim Materials Testing & Inspection LLP
Amateur Electronic Supply
Dempsey, Roberts & Smith LTD
Epic Management
Four J Inc.
Galena Market
Gilcrease Orchard
Green Valley Security
H Kent Company
Herda's LTD
HP Media Group
JFG Systems
Jim's Tire Factory
K Jax
L & M Inc.
Las Vegas Ace Hardware

Las Vegas Manufacturers Jewelers
Lee's Body Repair
Metric Motors Inc.
Mulligan's Durango
Original Pancake House
Original Pancake House 1
Original Pancake House 2
Original Pancake House 3
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Positive Show Solutions Technology
Reno Auto Body
Rigo's Taco 8 Inc.
Styles Inc.

NRNSIG members who wish to register a negative vote on a new group member, write NRNSIG at 810 E. Fifth St., Suite A, Carson City, NV 89701, indicating which member and the reason(s) for the negative vote.

NCNSIG members should contact Joseph Burgess at CHSI, PO Box 33250, Reno, NV 89533, indicating the member and the reason(s) for the negative vote.

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The Tall Poppy Syndrome

Researcher explores the destructive action of envy in the workplace.

Australia has a problem called the Tall Poppy Syndrome. It's rooted in their culture and it hurts their economy, but the more you learn about it, the more familiar it sounds. You may have it yourself, and if you do, recent research by Suchitra Mouly, from the University of Auckland, will help you.

Australia was originally settled as a British penal colony, and many Australians trace their heritage to the criminals sent there. They were angry and violent, failures in British society, and they didn't like successful people.

Conspicuous success aroused envy, and modern Australian culture began with a shared attitude of hostility toward successful people and behaviors to thwart them and ruin their success. Today, Australians call successful people "tall poppies," and cutting them down to size is called "tall poppying." The terms are based on Aborigine stories.

People involved in the economic development of Australia denounce "tall poppying." They say it ruins the success of Australia's most creative and energetic people, hurts the economy, and spoils efforts to modernize. It sounds like fifth grade, where kids who do well on tests face abuse on the playground from those who don't.

Do you or your best employees experience envious hostility because of your success?

Mouly studied the case of a highly successful professor who applied for a double increment in her university's promotion system. The facts suggest that her application was appropriate, but doing so aroused envious hostility in her peers. They acted on this hostility and manipulated the promotion process to deny the

Peers misrepresent and slant facts

In the case Mouly studied, peers misrepresented and slanted facts that led them to two false criticisms of the professor:

- 1) She felt superior to her coworkers and acted like it.
- 2) She refused to help coworkers and acted selfishly.

Do you ever hear employees say such things? These false criticisms led to two incorrect conclusions:

- 1) Her high achievement wasn't so high after all.
- 2) Her high achievement came at too great a cost.

Managers in this university could have corrected this obvious mistake, but they didn't. They accepted the conclusion that she wasn't a high performer and she left. They shot themselves in the foot. Mouly found these factors hampering them:

- 1) They didn't check facts or sources of information.
- 2) Their evaluation procedure was rigid without an ability to step outside of it.
- 4) Some of their evaluation criteria were vague allowing others to supply a meaning that suited their purposes.
- 5) They accepted the assumption of wide agreement concerning criticisms of the professor.
- 6) They assumed their procedures for evaluation were fair and refused to consider any criticism.
- 7) They failed to request further information.

application. They "tall poppyed" her, and in response, she left and went to a different university.

Mouly wanted to know how they had done it and why the university was unable to stop it. We can apply what she learned in our own settings so our best people won't be hurt by envious peers cutting them down to size.

The most critical factor Mouly found was the management of meaning. Employees are able to transform reasons for commendation into reasons to criticize. They are also able to create the impression that these criticisms are valid, impartial, and widely agreed upon by other employees.

This transformation from commendation to criticism is encouraged by incentives for performance, appraisal practices that identify individuals with

outstanding performance, and uncertainty in the evaluation criteria.

We often hear employees comment about each other, but it can be difficult to recognize envy. It's the underlying anger directed at someone who possesses and enjoys something desirable, and the desire to take it away or spoil it. Envy attacks the very qualities we value, and if it succeeds, it ruins hope.

Retail business owners need to help envious employees recognize their destructive feelings and replace them with gratitude. Outstanding performers benefit everyone. With understanding, managers can help their employees recognize envy and replace it with gratitude.

*Reference: Mouly, V. Suchitra and Jayaram K. Sankaran (2002) "The Enactment of Envy Within Organizations." **The Journal of Applied Behavioral Science**, 38 (1), 36-56.
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Treasury Department targets tax shelters—The Treasury Department wants to fine tune its regulations regarding tax shelters and has released a package of proposed and temporary regulations that will require disclosure and registration of corporate tax shelters.

• **Disclosure:**

Temporary and proposed disclosure rules (T.D. 9017) will require taxpayers to disclose and promoters to maintain investor lists for six categories of transactions: 1) listed transactions; 2) transactions marketed under conditions of confidentiality; 3) transactions with contractual protection; 4) transactions generating a tax loss exceeding specified amounts; 5) transactions resulting in a book-tax

difference exceeding \$10 million; 6) transactions generating a tax credit when the underlying asset is held for only a brief time.

• **Registration:**

Temporary registration rules (T.D. 9018) that will clarify when a tax shelter promoter would have to maintain and disclose investor lists under Section 6112. Any person who organizes or sells any interest in a potentially abusive tax shelter must maintain lists. A transaction has the potential for tax avoidance or evasion if it is a listed transaction or if a potential material advisor, at the time the transaction is entered into, knows or has reason to know that the transaction is otherwise a reportable transaction.

Retail Association of Nevada

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