

Legal Q/A

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If our medical practice leases technicians and other personnel from a staff leasing company, are we required to provide workers' compensation and disability benefits coverage for them?



It has become increasingly common for businesses to hire employees through staff leasing companies who handle the payroll, taxes and benefits packages for its employees. The leased employees are usually administrative personnel, but licensed professionals, including physicians and other health care providers, can be furnished through a leasing company. In New York, leasing firms – known as Professional Employer Organizations (PEO) – must be licensed by the Department of Labor.

Leased employees are considered the employees of the company that is paying to lease them and that company must have a workers' compensation and disability benefits coverage in its name. Clients of leasing companies may be covered by two alternative methods. First, each client of a leasing firm may procure its own workers' compensation insurance policy to cover its leased employees (as well as any non-leased employees). For example, the physician practice leasing administrative staff could obtain workers' compensation coverage for all of its employees, leased or otherwise.

Alternatively, the leasing firm (PEO) can procure a separate workers' compensation insurance policy to cover the leased employees of each of its client firms. Such a policy would identify the insured as ABC Staff Leasing Company L/C/F Acme Medical Group, P.C. This policy would only cover the leased employees of the medical group. If the group hires any non-leased employees or wishes to protect itself from the claims of uninsured subcontractors working for it, the group must purchase a separate workers' compensation policy to provide coverage to individuals not specifically listed on their contract with the PEO.

The failure to provide workers' compensation coverage when required carries with it very severe statutory penalties. The sole proprietor, partners, or the president, secretary and treasurer of a corporation are personally liable for the

failure of the business to secure workers' compensation insurance. If an insured employee gets hurt on the job, the employee cannot sue the employer, but that protection is removed if the employer did not have workers' compensation coverage for the employee. In addition to penalties and fines imposed by the Department of Labor, the employer can be held responsible for all wage and medical benefits awarded to the uninsured employee (without any cap).

Physicians who are contracting with staff leasing companies should check to make sure who is responsible for furnishing the workers' compensation and disability benefits insurance policies.

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