

## Health and Welfare Plans

### Practices and Industries

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#### PRIMARY CONTACTS

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As healthcare costs continue to rise at alarming rates, employees increasingly cite healthcare coverage as one of the primary considerations for taking and staying at a job. In order to attract and retain the best workforce possible, companies should strive to offer attractive health and welfare benefit packages.

In sponsoring health and welfare plans, companies must ensure that they maintain the required documents, policies and procedures, and that their documents comply with applicable laws. They also must administer their plans, policies and procedures in compliance with the law.

Haynes and Boone's employee benefit lawyers provide companies with knowledgeable and experienced counseling in all aspects of health and welfare issues, including document and administrative compliance. Our lawyers are ready to respond to any issue and prepared to help companies of any size design and implement many types of health and welfare plans. In addition, our group will work with the company's existing documents, policies and procedures in order to provide the highest quality services in a cost-effective manner. Our dedication to client service was recognized by *Worldwide Law Review*, AI Global Media, which named the firm the Best Health & Welfare Compliance Consultancy in 2017.

#### Plan Design and Implementation

Haynes and Boone's experience includes designing, drafting and helping companies adopt and implement:

- Section 125 cafeteria plans including premium only plans, healthcare flexible spending accounts (FSAs) and dependent care flexible spending accounts
- Tuition reimbursement plans
- Severance plans
- Self-funded medical plans, including active and retiree medical plans
- Health reimbursement account plans (HRAs)
- Health savings account plans (HSAs)
- Dental plans
- Vision plans
- "Wrap plan" documentation to fill in gaps commonly left by insurance certificates of coverage or benefits booklets, including plan amendments and modifications, document requests and committee charters
- Adoption assistance plans

- Legal compliance review of plan documents and service agreements
- Review and assistance with open enrollment materials
- Legal advice regarding tax implications of H&W benefits
- Ad hoc questions and special situations

In addition, our lawyers can help negotiate agreements with third-party vendors including:

- Third-party administrator agreements
- COBRA administrator agreements
- Business associate agreements (BAAs) required by the HIPAA privacy and security rules

Finally, we routinely help companies comply with health and welfare plan policies and procedures, including:

- Qualified Medical Child Support/National Medical Support Notice procedures
- HIPAA privacy policies and procedures
- Claims and appeals procedures that comply with ERISA
- COBRA compliance procedures

## Plan Disclosures

In addition to maintaining a written plan document, virtually all health and welfare plans are subject to additional disclosure requirements. We help companies comply with these requirements by drafting disclosures, such as:

- Summary plan descriptions (SPDs)
- The four separate notices required by COBRA
- HIPAA privacy notices
- Notices of creditable coverage
- Preexisting condition exclusion notices
- Women's Health and Cancer Rights notice
- Newborns' and Mothers' Health Protection Act notice
- Mental Health Parity and Addiction Act
- Summary of benefits and coverage

## Compliance

In recent years, numerous court cases have demonstrated that there are substantial liabilities to companies whose health and welfare plans are not in proper order. Haynes and Boone lawyers closely follow legal and legislative developments and help companies audit their plans to ensure they are in full compliance with the law. We routinely advise companies on:

- COBRA compliance
- HIPAA compliance and employee privacy concerns

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- ERISA compliance, including ensuring claims and appeal procedures and disclosures comply with ERISA rules
- Leave administration
- Plan versus employer expenses

Our goal is to save you valuable time and money by identifying potential liability issues prior to exposure in litigation or government investigations. We closely follow all health and welfare plan developments, including proposed legislation, so that we can alert you well in advance to changes requiring substantial changes on your part.