

Policies Can Legally Encourage Healthy Employees

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The Health Insurance Portability and Accountability Act (HIPAA) prohibits employers from providing fewer benefits to smokers or overweight employees, for example, but it does permit employers to provide incentives for employees to take their medications, lose weight, quit smoking, etc. The Americans with Disabilities Act permits employers to have voluntary wellness programs, but imposing no-smoking rules (at work or outside work) and mandatory weight loss programs potentially involves a number of laws, claims under state discrimination laws and state claims for privacy invasion and discharge in violation of public policy.

The bottom line is the law in this area is unsettled; however, it still may be worth looking into developing policies that focus on hiring healthy employees and encouraging wellness in the workplace without violating employee-protection laws.

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