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# HR BULLETIN

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### **MTA HR Committee Reorganization**

As part of the MTA-MART merger activities to reshape the organization and expand member involvement and benefit, the MTA HR Committee has transitioned into the MTA Human Resources Peer Group. As a Peer Group, we will continue to operate under the direction, policy and oversight of the MTA board. Internally, a leadership group will organize and facilitate discussion meetings and event planning. Sub-committees within the leadership group will plan and organize MTA-U education programs for frontline and management employees, write and publish the HR Bulletin, plan HR-related educational events, conduct the annual salary and benefit surveys, provide HR luncheon speakers and a Break-out Session at MTA's Annual Convention.

Our focus will be to identify issues related to human resources functions and flow that information to the association members to benefit those whose jobs include HR responsibilities. All companies have responsibilities to their employees and need to observe basic HR practices and employment laws. The membership is diverse and to that end, we want to create added value for a wider audience.

As a resource for you, Meeting Summaries can be found on the MTA website, under "Committee Minutes" and previous issues of HR Bulletins are archived in the "Publications" section with a topic list included for each issue to help you quickly find the information you need. Please consult the MTA 2008-09 Membership Directory for HR Peer Group contact information.

### **What You Need to Know About Negligent Entrustment**

What is "negligent entrustment?" It is a legal term that means you trusted someone with something potentially dangerous, and you knew or should have known better than to trust that person. Your company is responsible for hiring competent and qualified

employees and under a charge of negligent entrustment, is liable for the damages caused by an incompetent person.

A legal aspect to be aware of when hiring drivers is that although there is no law that states you have to check the MVR (motor vehicle records) of applicants, there is precedent law on the books that indicates if you don't, you may be held responsible.

Negligent entrustment specifically involves claims where:

- The driver is unfit, inexperienced or reckless;
- Employer knew or should have known of this risk;
- Entrustment created an appreciable risk of harm to others (driving regularly for work meets this requirement);
- Injury is caused by the negligence of the driver and the negligent entrustment.

Negligent entrustment with regard to employee-drivers can include things such as hiring a "bad" driver; failure to take action regarding a "bad" driver and failure to provide appropriate supervision, training and safe driving practices. Here are a few examples of the sizeable claims that can result:

- Insured driver (age 18) with history of moving violations and a license suspension in her relatively short driving career killed a man when she turned in front of him at an intersection. Verdict of \$2.75 million.
- Insured hires employee with 7 moving violations and two accidents in the last four years. Verdict is 10 times what it should be.
- Insured hires driver with two DUI violations and four speeding violations in the last five years. Driver runs a red light while speeding, killing a family of four. Verdict: The insured may be out of business.

Proactive solutions and practices that show employees and others that you are serious about safety may limit your liability if an accident occurs. Here are some things you can do:

- ✓Evaluate driving record during hiring process.
- ✓Do not hire drivers with multiple DUI or moving violations in recent years.
- ✓Have a formal & consistent driver safety policy.
- ✓Formalize driver review and training.
- ✓Enforce disciplinary standards.
- ✓Knowledge of driver's alcohol use, however acquired, must be addressed.

Your liability insurance carrier may be able to offer guidance in developing a company driver-hiring program.

*Sources: (Chris Danielson, National Farmers Union Insurance Company, and [www.greatamericaninsurance.com](http://www.greatamericaninsurance.com))*

## **Conducting Background Checks**

Hiring qualified applicants is more than just trusting that the candidate has clean background. Today, the employer continually faces more liability to ensure they are doing their diligence in conducting pre-employment background checks. Criminal background checks are an essential step of the employment process. In fact, it has almost become an expected practice to protect your company from a negligent hiring claim and to reduce risk.

Negligent hiring makes an employer liable for the damages to a third party by an employee if the employer knew or should have known, based on the employee's background, that the employee posed a risk to the third party. For example, a telecommunications company hires a Combination Technician without conducting a criminal background check. Three-months later, the newly hired Combination Technician physical assaults a customer during a service installation. The customer files a lawsuit against the company based on the conduct of the employee. Through the investigation, it is determined that the employee had a criminal record of domestic assault and violence. In this situation, the company could have a high liability potential because of the negligence in conducting a pre-employment criminal background check. Criminal background checks help to screen out undesirable or dangerous job applicants, as well as assist in hiring the best possible candidate to work for your company. The standard criminal background check is accurate, comprehensive, consistent, timely, and legal. Many companies use outside firms to conduct their background checks with many options available for quick, fast, and easy results. Third party providers, whose business focus is background checking, are better equipped to conduct thorough and accurate background screening. Accredited third party companies should be certified by the National Association of Professional Background Screeners. These organizations are in compliance with the public and legal requirements of the screening process, specifically with the FCRA (Fair Credit Reporting Act). Making informed decisions about whether an individual will contribute to a safe and productive workplace is essential for the safety of the company and the customer.

## **Communicating Benefit Info to Employees**

If an hourly employee wants to know how much they are being paid per hour, or how many sick and vacation hours they have available to them, they know they can easily find all of this information on their most recent pay stub.....but where do they go to find out the value of the benefits they don't see reflected on their pay stub? Do they care? They should care and it may well be in the best interest of the company to inform them on a regular basis. The investment your company makes in benefits, while painfully obvious to the executives of the company may not be a value that is generally recognized by employees. Companies may verbally communicate benefit values to employees, but are the majority of the workers retaining the information being communicated to them? Enlightening workers of the value of their own personal benefits can result in higher employee satisfaction, increased morale and greater company loyalty. Research has indicated how well an employer communicates the value of its complete benefit package may actually play a large part in the retention of employees. It is the educated employee who will know enough to include all benefits in the compensation equation when considering outside job offers. They may decide to stay where they are, thereby reducing costly employee turnover.

So how do we go about communicating benefit information to our employees? What types of benefits should we include? While employees are aware they have group health coverage, they most likely don't know the cost to the company and the cost value to them individually. In addition, employees rarely think to consider the value of employer paid savings/retirement deposits, social security contributions, life insurance, paid leave, employer payroll tax contributions, employee assistance programs, tuition reimbursement programs, and a variety of other benefits. Together, the value of these benefits can easily equal from one-third to well over half of the employee's salary.

A popular and effective tool in communicating this information to employees is an annual employee benefit statement. This can be done through the use of the traditional print communication, through the Internet or an intranet based network. When using this tool, remember to keep the content easy to understand. Benefits are complicated. Communication needs to be concise, simple and in a format the employee can understand. For help in getting started on a format, you may want to contact some of your business peers to see if they are currently using benefit statements as a tool and see if they would be willing to share their format.

*HR Bulletin* is written by members of the MTA Human Resources Peer Group and is intended for MTA members only.

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