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# NOTES

**Monday, August 1, 2011**

## Administering FMLA can be a tricky business

**HR Highlights:** *This special section will be published monthly throughout 2011 with information provided by our sponsor, [Gallagher Benefit Services, Inc.](#)*

The Family Medical Leave Act (FMLA) is a federal law that provides job-protected leave for eligible employees, and compliance with this Act can be very tricky and confusing for employers to manage. Questions such as which employees are covered under the law, under what circumstances employees are eligible for FMLA leave, how to calculate the correct amount of FMLA leave, etc. can be difficult to answer; and the employees who request leave often present unique situations.

For example, remote workers, those who telecommute, or individuals who travel in a sales capacity may still be covered under the FMLA even though they work a significant distance from any other employees or business locations of their employer.

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## Finding the right balance: social-media policies in a technology-driven world

*By Matthew DeVries, Stites & Harbison*  
Chamber member since 1959

You cannot turn on your computer without finding some reference to Twitter, LinkedIn, Facebook, YouTube, and numerous other social media platforms. Are these sites time killers? Is there true value in jumping on the bandwagon? As with most answers in the business world, it depends!

With improved technologies, companies and their employees can perform their jobs more quickly, more efficiently, more safely and at less cost than ever before. For better or worse, employees' around-the-clock access to the Internet has created the need for more improved preparation in the human resource department. The key

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# Finding the Right Balance:

## Social Media Policies in a Technology Driven World

By Matthew DeVries, Stites & Harbison PLLC

Matt is a construction and employment lawyer with the Nashville office of Stites & Harbison PLLC. He regularly speaks on issues relating to social media, including business development and legal risks. He is the author of [www.bestpracticesconstructionlaw.com](http://www.bestpracticesconstructionlaw.com).

You cannot turn on your computer without finding some reference to Twitter, LinkedIn, Facebook, YouTube, and numerous other social media platforms. Are these sites time-killers? Is there true value in jumping on the band wagon? As with most answers in the business world ... it depends!

With improved technologies, companies and their employees can perform their jobs quicker, more efficiently, less costly and safer than ever before. For better or worse, employees' "around-the-clock" access to the Internet is making a need for more improved preparation in the human resource department. The key is to find the right balance between privacy, business development and risk assessment. One way to find that right balance is through a written social media policy.

**The Basics.** When you hear the words *social media*, there are literally hundreds of applications that come into play. However, employers should be concerned about three different categories: (1) social networks; (2) blogging and Tweeting; and (3) profiles and channels. Facebook and LinkedIn are known as social network platforms. Once you create a profile, which contains as much or as little information about you or your business as you choose, then you start to build your network by making friends or connections. Blogging and micro-blogging through Twitter enables its users to send and read information known as posts or "Tweets," in the case of Twitter. The posts and Tweets are displayed on the author's profile page and delivered to the author's subscribers or followers. Finally, profile pages or channels created on Wikipedia or YouTube allow distribution of other content, including videos, about any topic possible.

**The Risks.** As an employer, you can no longer ignore the media reports: *social media will affect the workplace*. It seems that a story breaks every week about an employee Tweeting or posting about something inappropriate, raising the bar for employer oversight. If your workplace does not have a social media policy, you need one. The real challenge is to make sure you do not stifle innovation in business development in your zeal to protect your company's image on the Internet.

**The Policy.** The time to write a social media policy is now. Your company may already have a computer usage or Internet policy, but it needs to specifically address social media aspects. No longer should the company be **only** concerned about an employee's "use" of company computers—now the company should focus on its employees' uses of other mediums. Here are some tips:

- The policy should be more about what employees *can* do and best practices for social media use versus all the things employees *can't* or *shouldn't* do on social media.
- The policy should apply to all multi-media, social networking websites, and blogs—whether for professional or personal use.
- The policy should re-iterate the company's confidentiality provisions so that Internet postings should not disclose any protected information.
- The policy should require the employee to include a disclaimer on any social media platforms. (i.e., "*The views expressed are mine alone and do not necessarily reflect the views of my employer or company.*")
- For company pages or blogs, the policy should require approval when the employee is posting about the company and the industry.
- Finally, the policy should include a statement that the company reserves the right to request that certain subjects are avoided, withdraw certain posts, and remove inappropriate statements.

In the end, a social media policy lets employees know what they need to know to communicate the company message effectively and the boundaries for their communications. Once the social media policy has been finalized, it is important to let your employees know about the change. Use it as a time to foster innovation, while at the same time, protect the company's image.