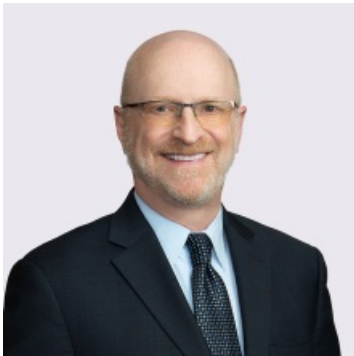


Empowering Agent and Employee Wellness in the Real Estate Industry

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Wellness is important for a variety of reasons, not the least of which is that real estate agents and employees spend so much time at work. According to the [U.S. Bureau of Labor Statistics](#), in 2022, full-time employees in the United States spent an average of 8.42 hours at work each working day, and part-time employees an average of 5.54 hours.

While working, employees want to feel valued and respected, and employers want their employees to be both satisfied in their jobs and productive. These goals may need different strategies, depending on the individuals. Some employees may value added flexibility, including liberal leaves of absence or paid time off policies. Others may find meaningful their employer's contributions toward a gym membership, short employer-organized wellness walks during the workday, engagement with an employer-provided employee assistance plan, or their employer facilitating an arrangement with a local health club, among other things. Poor mental health and stress can negatively affect an employee's job performance and productivity, engagement with work, communication with coworkers, and physical capability and daily functioning. Often, the more emotionally and physically healthy an employee is, the more likely they feel valued and committed to the workplace.

There are other factors for employers to consider as well. Various laws on the federal, state, and local level — for example, the federal Americans With Disabilities Act — may offer employee protections against adverse employment actions if unlawfully tied to an employee's physical or mental disability. A best practice is to focus on the tasks and job requirements at hand. If an employee is not meeting quotas, deadlines, or other real estate-related tasks, let them know, but also ask if there is anything you can provide to help them meet their metrics. While you should not specifically ask if they are dealing with a mental health issue, as you do not want to be accused of "regarding" them as having a disability, inviting them to tell you if there is something you can do to help them might also make them feel they can raise other barriers they believe they are facing. If an employee indicates a need for a change in the work environment or the way things are typically done at work, and if the employee has a condition that rises to the level of a disability, then the employer should engage in the interactive process and evaluate potential reasonable accommodations. In most circumstances, you can request medical information to confirm the true existence of a medical condition and to understand how the requested accommodation will impact both the employee and the job. If an employee does not express or identify any claimed health condition or need for an accommodation, however, the employer is free to simply remind the employee of the job requirements and that they may be subject to performance management if they do not timely and adequately satisfy those requirements, without the need to take any additional steps.

Further, the well-known legal obligation to maintain a workplace free of discrimination, harassment, and retaliation is a key component of addressing wellness. In this context, it is important that the company move beyond the policies on paper and regularly remind its workforce of its strong commitment to a workplace free of discrimination and harassment. Employees should feel they have a reliable and safe outlet to bring issues to the company's attention in an environment free from discrimination, harassment, and retaliation. Even if they do not have a particular issue, just knowing their employer places an emphasis on this commitment can have a positive mental effect.

Understanding these principles will go a long way toward ensuring your staff has avenues to address their overall physical and mental health at work. Confronting potential legal risks early can keep them from blossoming into formal legal claims and position companies as employers of choice.

Please contact a Jackson Lewis attorney with any questions.

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