

Class explains new law's letter to area businesses

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Local businesses recently were given a lesson on how to comply with significant changes to the Family and Medical Leave Act and avoid being sued.

The new law, which became effective Jan. 16, 2008, outlines new types of leave, new forms and new rules that businesses need to follow to avoid litigation over a violation of the federal law.

The law requires companies with 50 or more employees to provide unpaid leave in several scenarios for qualified employees with guaranteed job reinstatement.

“Employers who fail to educate their managers and update their policies and forms expose themselves to an expanded universe of claims for improper denial of FMLA leave,” said Steve Rowe, a lawyer with Poyner Spruill LLP’s Rocky Mount office.

On Feb. 12, Rowe and lawyer Kevin Ceglowski of Poyner Spruill’s Raleigh office outlined the new provisions of the law to business owners at Nash Community College.

Rowe noted in his presentation that if managers do not understand the company’s obligations under these laws, they may ignore employee requests for time off, exposing the company to expensive charges of discrimination and litigation.

For most of 2008, employers were obligated to provide up to 26 weeks of leave for an employee to care for family members injured during military service. The law makes it clear that one employee with multiple family members on active duty may be entitled to multiple 26-week leaves.

Under the law, employers also must provide up to 12 weeks of leave to employees whose family members are called to active duty, Rowe said. Time off must be given for those employees to attend military events and related activities, handle child care and school activities, make financial and legal arrangements and go to counseling.

A significant change also has been made to employee-notice obligations, Rowe said. Even if an employee’s absence is covered under the law, the employee still must follow their employer’s usual procedures for reporting an absence. This is an important tool to curb abuse of the leave, and employers should review their procedures for employees calling in their request for a day off.

Employer notice obligations have been expanded. Employers now must provide written notification to employees concerning their eligibility for leave under the law, written notice of rights and responsibilities and a final notice designating whether the leave qualifies under the Family and Medical Leave Act.

Failure to provide the notices may result in the employee being able to have a longer leave period, Rowe said.

The law also has been changed to allow employers to contact the health care provider directly in some situations as part of certifying if the employee is eligible for leave.

The seminar helped translate the lengthy and complex legislation for local business owners, said Joy Andrews, human resources director for the Kate & Billy Harrison Family YMCA, who attended the seminar.

“These low-cost seminars presented by legal people are certainly extremely helpful, particularly for smaller businesses,” she said.

Business owners who attended the event complimented the presentation given by the lawyers, said Fred Brooks, director of the college’s Small Business Center, which was one of the sponsors of the seminar.

“They did a fantastic job of making it understandable presenting the information as well as taking questions and answers,” he said