The Professionals Guild of Ohio

PGO UNION NEWS

April 2019

Published by
Professionals Guild
of Ohio
P.O. Box 7139
Columbus, Ohio 43205

Questions or comments can be directed to the Executive Director.

E-Mail:
cmason@professionalsguild.org

Website:
www.professionalsguild.org

Phone:
614-258-4401 or
800-331-5428

@GuildOhio

Professionals Guild of Ohio

Ohio Continues To Trail In US Health Rankings

An analysis that looks at more than 100 statistics related to health outcomes and health care spending ranks Ohio near the bottom, at 46th, the same as two years ago. The 2019 Health Value Dashboard from the Health Policy Institute of Ohio, which compares Ohio with the 49 other states and the District of Columbia, follows similar dashboards released in 2017 and in 2014, when the state ranked 47th.

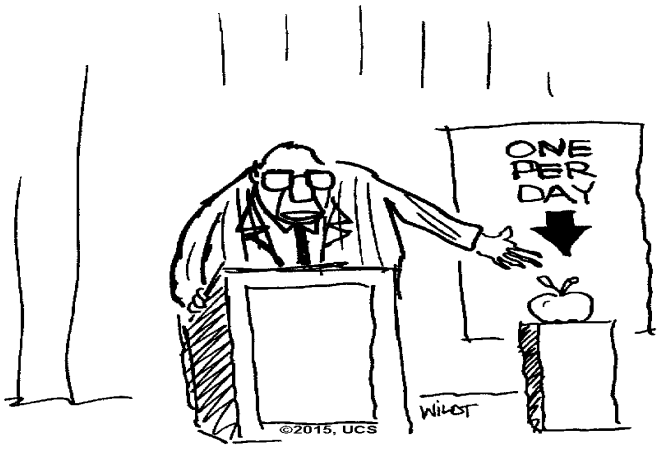
The HPI Health Value Dashboard is a tool to track Ohio's progress towards health value—a composite measure of Ohio's performance on population health outcomes and healthcare spending. The report looks at statistics in seven areas: population health, which includes health behaviors and conditions; health care spending; access to health care; the health care system; public health and prevention; social and economic issues; and the physical environment, which includes issues such as air quality, housing, and access to physical activity.

Why did Ohio rank so poorly? The report finds that disparities remain a strong concern, as it reviewed 19 metrics as they relate to race, ethnicity, income, education level, and disabilities. It concludes that without a strong foundation, not all Ohioans have the same opportunity to be healthy. Ohio ranks 28th on health care spending.

Ohioans with disabilities or Ohioans who are racial or ethnic minorities, have lower incomes or educational attainment, are sexual or gender minorities or live in rural Appalachian counties, are more likely to face multiple barriers to health. For example, black babies are three times more likely than white babies to die before their first birthdays. And Ohioans with less than a high school education are six times more likely to be unemployed and 6.6 times more likely to be uninsured than those with a college degree.

Among other things, the report makes the following recommendations to improve healthcare for its citizens:

- increasing investment in evidence-based home visiting to ensure at-risk families have access to services, including families under 200 percent of the federal poverty level;
- expanding access to quality early childhood education and expanding eligibility for Ohio's child care subsidy from 130 percent to at least 200 percent of the federal poverty level; and,
- expanding access to lead screening and abatement services by increasing funding to the state's lead poisoning prevention fund, tax incentives for lead abatement and expanding the lead abatement workforce for at-risk children and children living in low income families.



"Let me present the company's new health plan."

Let's Take Health Care Off The Bargaining Table

Union members enjoy some of the best health care that working-class Americans can expect to receive. Unions have fought long and hard to establish and maintain these benefits and they are justly proud of their achievements. In the absence of a national health plan, they have sacrificed much to negotiate a modicum of security for their members and their families.

More than half of all Americans still access health care through employment-based benefit plans. There is a myth that Americans love their health plans and want to preserve them at all costs. But providing an important public good like health care as a benefit linked to employment rather than as right available to all is an accident of history. This linkage is not only a bad idea, it is also simply unsustainable. No other advanced industrialized country links health care to employment like the US does.

Workers in other countries don't have to fear losing their health care when they lose their jobs, nor are they chained to a job that they hate because they need the health care coverage. They don't have to worry about their children aging out of their health plans or losing their benefits as result of a long-term illness that disrupts their employment. They are not subject to the constant churning of health plans and provider networks and the confusing and ever-changing array of deductibles, co-payments, out-of-network charges that even the best of plans impose on their members.

And importantly, these employer-based health care plans put American companies at a competitive disadvantage against rival businesses in other countries that have national or single-payer health care systems.

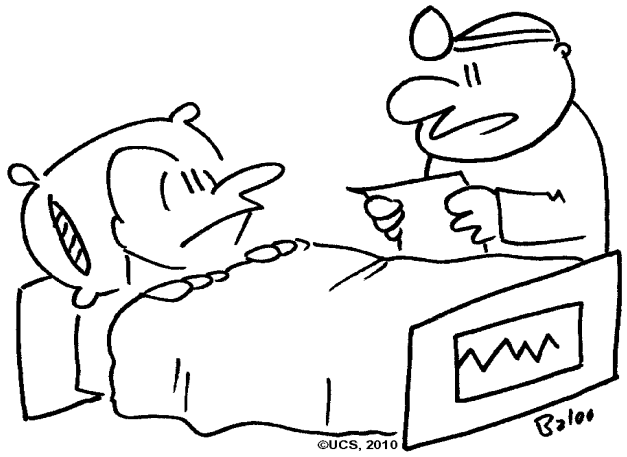
The Milliman Medical Index reports that total health care costs for a family of four with decent employer-provided coverage exceed $28,000 per year. This comes to $14 per hour worked by a full-time employee. The average employer pays nearly $16,000 towards these costs and the worker picks up the remaining $12,000 through a combination of payroll deductions, co-pays and deductibles. The total costs have consistently increased 2, 3 and 4 times faster than the rate of inflation. And the percentage paid by the worker has gone up nearly every year since 1994.

That is why health care has become the biggest cause of strikes, lockouts and concession bargaining. Health care costs drive wage stagnation as unions routinely trade off wage increases and other benefits in order to maintain basic health care for their members and retirees. Unscrupulous non-union employers gain an unfair competitive advantage over worker-friendly businesses by shortchanging their own employees' health care benefits.

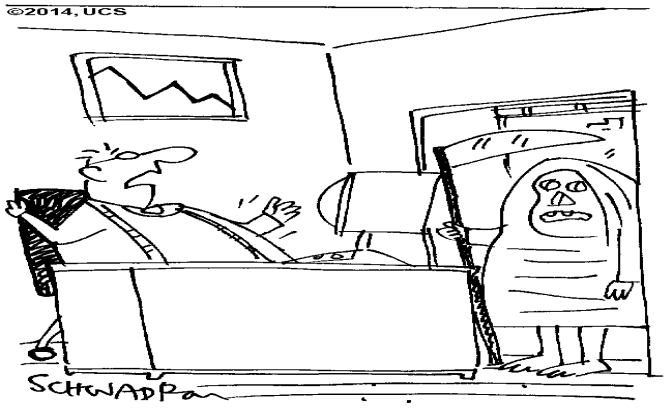
Unions do not serve their members well by trying to circle the wagons around an unsustainable model of employment-based health care. That is why the AFL-CIO, the Washington State Labor Council, and dozens of unions have called for a social insurance model like Medicare for All.

The time has come to take health care off the bargaining table by making it a right for all Americans.

***Editor's note**: this article was written by Larry Brown, President of the Washington State Labor Council, AFL-CIO. It has been reprinted from* The Stand*, a service of the WSLC and its affiliated unions.*



"You're improving, but your health insurance is wasting away."



"At least let me clear out my browser history before I go!"

Privacy In The Workplace: Cell Phone Usage

In many situations, Ohio law provides greater employee privacy protections than employees get under federal. This is the result of the Ohio Constitution, along with special statutes, and the history of privacy laws that have developed in the State of Ohio.

Under both federal and Ohio law, an employer can access the phone, texts, emails and any other data of a phone or computer provided the employee by the employer. The information on a phone or computer that is not provided by the employer is afforded much greater privacy protection. Whether or not an employee can be required to provide an employer with information on a personal cell phone or computer will depend greatly on the business reason for seeking such information.

An employer can access the phone, texts, emails and all other information stored on a phone it issued to employees. With that in mind, you should use an employer provided cell phone knowing that whatever is transmitted and/or stored on that phone is not private. Any texts sent, calls made, and web sites accessed, are available to be reviewed by the employer upon request.

As for personal cell phones used by public employees in the course and scope of their employment, such phones will not only have personal information, it may also have employer "work product" and/or public record data stored on the phone. This creates a conflict between an employee's privacy rights and the public employer's management rights. How this conflict is resolved will vary greatly depending on the employer's cell phone policies and the work-related purpose for requesting information contained on the cell phone.

For all practical purposes, employees that use a personal cell phone for business purposes gives the employer a potential opportunity to review a list of all telephone numbers dialed from or calling into that cell phone. This is because the United States Supreme Court has determined that an individual does not have reasonable expectation of privacy in numerical information voluntarily conveyed to the telephone company.

Again, whether or not an employer has a "right" to review a list of the telephone numbers associated with calls taking place on that phone will depend on the work-related purpose presented by the employer.

Business related text messages on a personal cell phone present an even more complicated legal matter. Under Ohio law, a text message becomes a public record when its content documents any business of the office or agency. The existence of a public record of this nature imposes a requirement upon the employee to make the employer aware of the record and makes the text message subject to any public records request reasonably covering the content of such text messages.

The best way to avoid having your employer gaining access to your private cell phone is to never use any personal device for official business.

It is important to remember that using a cell phone to communicate with fellow employees, union representatives, or the PGO office regarding a union related work issue DOES NOT CREATE A PUBLIC RECORD and does not allow your employer to seek access to your personal device. If a supervisor orders/ asks you to turn over a personal device or issues a policy allowing access to personal records, you should contact your PGO representative immediately.

***Editor's note**: this article is for informational purposes only and is not intended as legal advice. You should contact your PGO representative or an attorney if you have any questions or concerns about your rights.*

"These deductions will save you a lot of money with only minimal prison time."

Social Media and Your Job

Social media has grown at an incredibly rapid pace. Facebook has millions of users and many people frequently post their thoughts, as well as personal photographs, on such sites. Employees should be aware both of the possible dangers in posting on such sites as well as the legal protections for certain types of postings on social media.

Since social media use has exploded, several public employees have been fired or disciplined for allegedly inappropriate posts. Employees should use common sense in deciding what to post on social media. In addition to the legal protections discussed below and protection from the just cause article in your collective bargaining agreement, public employees also have some protections when posting on social media under the first amendment. However, despite these protections employees are best served by generally not discussing work-related matters on Facebook or other social media websites.

If you do choose to discuss work on social media websites, be careful in the language you use and the comments you make, and particularly refrain from commenting about clients whom you serve. Also, last but not least, avoid posting to social media websites during work time. And, be mindful of any posts you make when you are absent from work due to illness or injury.

While the just cause provision in your collective bargaining agreement provides some protection against discipline over certain social media posts, there are lines that, if crossed, could lead to discipline. Before posting on social media sites, you should consider how your employer might react to the post. In addition to the protections contained in your collective bargaining agreement, labor law also provides some protection for certain posts depending on their specific content and tone.

In one case the National Labor Relations Board (NLRB) concluded that an employer violated federal labor law by firing five employees based on their postings on Facebook. The NLRB concluded that because the Facebook discussion concerned staffing levels and performance issues and was in preparation for an anticipated meeting with the employer's Executive Director, the Facebook discussion was concerted, protected activity and was, therefore, legally protected. The NLRB then concluded that the fact that there was some swearing and sarcasm in the Facebook posts did not result in the posts losing their legal protection. Thus the NLRB concluded that the employer violated the law by firing the five employees over their Facebook posts.

In another case, the NLRB considered whether an employer maintained an illegal internet and blogging policy and whether the employer had illegally fired an employee for posting critical remarks about her supervisor on Facebook. The employer's internet policy prohibited employees from making disparaging remarks about the employer or its supervisors, or from depicting the employer in social media without its permission.

The NLRB concluded that the Facebook posts were protected concerted activity, since it is well established that protesting supervisory actions is legally protected activity. The NLRB further concluded that the employee did not lose the legal right to make her Facebook posts simply because she had referred to her supervisor with disparaging terms, such as "scumbag." The NLRB noted that the Facebook postings were not made on company time and, more broadly, that the employer's internet and blogging policy was unlawful because it blanketly prohibited employees from making disparaging remarks when discussing superiors or coworkers and did not inform employees that the policy did not apply to protected concerted activity such as that described above. Furthermore, the employer's policy prohibiting rude or discourteous behavior was similarly overly broad and, therefore, unlawful.

Not all social media activity is protected under the law, however. Two crucial factors must exist for the conduct to be protected. First, the activity must be concerted, which means that it must involve some fashion of coordination with coworkers. An employee who speaks simply for herself without any involvement of coworkers generally is not engaged in concerted activity. Second, the activity must be protected. In other words, it must relate to terms or conditions of employment.

Lastly, while some abrasive language can be acceptable, there are limits to just how abrasive language can be while still being protected. For example, the NLRB concluded that an employee who made Facebook posts was not legally protected from being fired over the posts because she did not discuss her Facebook posts with her coworkers and none of her coworkers responded to her Facebook posts. Furthermore, she was not preparing for or inducing any group action and her posts were not spurred by concerns shared by other coworkers. The NLRB further implied that even had the posts been concerted activity they would not have been protected because they did not concern terms or conditions of employment. The employee was fired after having a Facebook conversation with two non-work friends in which she stated that working in a mental institution overnight was spooky and that one mentally disabled client was "cracking her up."

***Editor's note**: this article is for informational purposes only and is not intended as legal advice. You should contact your PGO representative or an attorney if you have any questions or concerns about your rights.*

We Need Your Help!

The PGO is updating its membership data base to prepare for the upcoming election of state union officers. If you have moved, or if you have never received mail from PGO, please contact our office to update your con-