Research Protocol for State Workplace Wellness Program Laws

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April 2016
State Workplace Wellness Program Laws

I. Date of Protocol: November 2014 to August 2015

II. Scope: Compile statutes and regulations governing workplace wellness programs for both public and private employers across all 50 states and the District of Columbia.

This cross-sectional dataset includes coding questions on whether states have laws addressing workplace wellness programs (public and private), whether the program is directed toward small or large businesses, whether the program is designated by health insurance type, the role of the state health department, certification of programs, tax credits to employers, health conditions and behaviors addressed, positive rewards, incentives and penalties.

III. Primary Data Collection

a. Project dates: Legal research was conducted between November 2014 and December 2014

b. Dates covered in the dataset: 2014

c. Data Collection Methods: The LawAtlas Legal Team (hereafter, “Team”) building this dataset consisted of three legal researchers (“Researchers”), two coders (“Coders”), and one supervisor (“Supervisor”). Each of the researchers collected state laws relevant to the dataset. The lists of laws were then compared to ensure consistency. Secondary sources and a subject matter expert were also used to compare and contrast collected or missing state law.

d. Databases Used: Searches were conducted using WestlawNext and Lexis.com for legislation and regulations. Full text versions of the laws were collected and pulled from WestlawNext and Lexis. Other sites such as Google and GoogleScholar provided additional secondary and primary literature.

e. Search Terms: The following search terms were used to capture the laws coded in the dataset:
   - “wellness program”
   - “worksite wellness”
The Researchers supplemented keyword searches by reviewing the table of contents for statutes.

f. **Initial Returns and Additional Inclusion or Exclusion Criteria:** In order to fully capture the scope of workplace wellness laws, researchers utilized broad search terms.

- If no regulation or legislation came back for a state, state attorney general opinions were also searched. This did not result in any useful information.
- Excluded areas of law include:
  - School-based wellness programs for students
  - Laws that referred to “workplace wellness”, “wellness programs”, or “worksite wellness” in passing and not related to workplace wellness programs themselves

IV. **Coding**

a) **Development of Coding Scheme:** The Team worked in collaboration to determine the focus of the research and the key questions to be coded. The Researchers reviewed the workplace wellness laws that had been collected and extensively reviewed secondary sources on the topic. The Researchers conceptualized, circulated, and revised coding questions. When the questions were finalized, the Team entered the questions into the LawAtlas Workbench.

b) **Coding Methods:** Codes for the variables were created to answer the coding questions. The coding was done by two coders on an individual basis. The Team frequently met as a group to narrow the scope of the dataset and tailor and revise questions to the relevant dataset. As necessary, the coding scheme was altered to accommodate newly identified features of the law and reduce ambiguity. Completed states were recoded accordingly. Laws in effect at any time in 2014 were included, regardless of later moratoriums or repeals. A final research protocol and codebook was developed to achieve replicable search results.

Unless otherwise noted, coding rules apply to both public and private datasets and questions were only coded if the state law explicitly mentioned the topic covered in the question. Below are also specific rules used when coding questions and answer choices in the dataset:

**Question:** “*Does the state have workplace wellness law directed at [public or private] employment?*”

Ten states had laws that did not specify the employer type, but based on our analysis, they likely applied to private employers generally or in limited circumstances and were included in the private dataset.
Question: “Does state law specify duties/authority of the state health departments/agencies to assist with employee wellness programs?”

This question was coded “yes” if the state law explicitly mentioned the duties or authority of a state department or agency whose primary duty is addressing health issues. Local agencies and non-health state departments/agencies were not included.

Question: “Does state law specify requirements for health-contingent wellness programs?”

Health-contingent programs require an individual to satisfy a health-related standard or complete an activity in order to obtain a reward. This was coded as “unclear” if the law mentioned health-contingent programs in some other context (e.g., discrimination), but did not explicitly specify any requirements.

Question: “Are best practices…”

If the law did not mention “best practices,” this question was coded “not mentioned.” If the law specified that benefits or penalties that accrue to the employer were contingent on “best practices” or that a program must utilize “best practices” in order to be compliant with the law, this question was coded “required.” If the law indicated that “best practices” should be included to develop the workplace wellness program, this question was coded “encouraged.” Otherwise, this question was coded “mentioned but not required or encouraged.”

Question: “Is program evaluation…”

As for best practices above, if the law did not mention “program evaluation” this question was coded “not mentioned.” If program compliance or penalties depended on whether the wellness program included an evaluation component, this question was marked “required.” If the law mentioned that a state department/agency or employer should evaluate the wellness program, this question was coded “encouraged.” Otherwise, this question was coded “mentioned but not required or encouraged.”

Question: “Does state law specify requirements for participatory wellness programs?”

Participatory programs are either not associated with a reward or do not require an individual to satisfy a health-related standard to qualify for a reward. Participatory programs do not need to satisfy any of the protective requirements for health contingent programs but they must be available to all similarly situated individuals. This question was coded “unclear” if the law did not explicitly state “participatory programs,” but nevertheless required that programs not be based on a health-related standard, or required programs to be available to all similarly situated individuals.

V. Quality Control

Quality control consisted of two Coders independently coding the laws for 10 states in both the public and the private datasets, recording the results, and then comparing
the results to identify divergences and achieve consensus on the initial codes that varied. In some instances, changes were made to clarify questions in the codebook and in others; additional responses were added to ensure consistency in coding. Each Coder coded the remaining states for one dataset. Each coder then reviewed the laws and the corresponding records for the dataset they did not code. Divergences were noted. Weekly meetings were held with the Team to discuss any identified divergences and corrections were made to the record once consensus was reached by the Team.