State Workplace Wellness Program Laws

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SUMMARY
This page focuses on the state laws that govern workplace wellness programs, including criteria that outline requirements for workplace wellness programs in the various states, rewards or penalties that may accrue to participants, and health conditions addressed by workplace wellness programs.

ABOUT STATE WORKPLACE WELLNESS PROGRAM LAWS & THE DATA
Public and private employers are increasingly providing workplace wellness programs to support employee health, reduce costs, increase productivity, and enhance the attractiveness of the organization. These include programs such as weight loss or smoking cessation programs, gym membership discounts, biometric screenings, flu shots or vaccinations, and advice through coaching, classes, newsletters or web-based resources. Among firms offering health benefits and wellness programs, 74 percent report that most of the wellness benefits they offer are provided through health plans. Depending on the type of health plan, federal or state law applies to these programs. The Patient Protection and Affordable Care Act of 2010 revised workplace wellness program laws, and implementing regulations became effective in January 2014. Thirty-two states and the District of Columbia had laws addressing workplace wellness programs for public or private employers in 2014.

Federal law applies to employer wellness programs operated by group health plans and group health insurers, and divides workplace wellness programs into two categories: health-contingent and participatory. Health-contingent programs require an individual to satisfy a health-related standard or complete an activity in order to obtain a reward. Participatory programs, on the other hand, are either not associated with a reward or do not require an individual to satisfy a health-related standard to qualify for a reward.

States are the primary regulators of insurance companies, but the Employee Retirement Income Security Act of 1974 (ERISA) preempts state law with respect to workplace wellness programs.

5. 78 Federal Register 33158 (June 3, 2013).
6. 78 Federal Register 33158 (June 3, 2013).

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integrated into group health plans. ERISA does not apply to government plans and "church plans." Therefore, for all wellness programs not integrated into private employers’ group health plans, government plans and church plans, state law applies. Yet the requirements and variability among state laws nationally have not been evaluated.

In a 2010 policy brief, the National Conference for State Legislatures stated that its research “did not uncover any studies of the effectiveness of state laws to encourage more employers to offer, or more employees to participate in, worksite wellness programs.” This research gap remains. The prerequisite to such a study is the creation of a comprehensive dataset of state laws to serve as the basis for policy evaluation. The maps and the data they display may serve as the basis for such a policy evaluation.

These datasets find 32 states and the District of Columbia had laws regulating workplace wellness programs as of 2014. The requirements, benefits, and penalties of these laws vary widely. The state laws have been divided into two datasets: workplace wellness laws that apply to private and public employers. Requirements for employees, benefits to employers, program requirements, and incentives to participants, were also considered.

The data available here includes laws in effect in 2014.

NAVIGATING THE DATA

There are two ways to navigate the data by clicking the Filter tab or the Explore tab — for each option, the data can be visualized in a map and table format or in jurisdiction profiles.

Filter

The dataset homepage will default to the Filter tab. Here, users may answer a series of questions to learn more about the characteristics of the laws. Answering more than one question will show all the jurisdictions that meet the combined criteria. Criteria selected will be listed above the questions, and can be removed by clicking the white X or by clicking “Reset” above the questions.

Explore

Users can access Explore by clicking the Explore tab in the bar above the questions. Using Explore, users will see the answers to one question across all jurisdictions.

The primary questions in this dataset are:

1. Does the state have a law regulating [public or private] employment?
2. Does the state specify duties/authority of the state health departments/agencies to assist with employee wellness programs?
3. Does the state certify wellness programs?
4. Does the state provide tax credits to employers for implementing wellness programs?
5. Does state law specify the health conditions/behaviors the wellness program plan MUST address?
6. Does state law specify health conditions/behaviors the wellness program plan MAY address?

7. Which health conditions/behaviors are specified in the law, if any?
8. Does state law address incentives?
9. Does state law specify that workplace wellness programs must be voluntary?
10. Does state law require workplace wellness program participants’ health information to be kept confidential?
11. Does state law prohibit discrimination against worksite wellness program participants?
12. Does state law expressly permit a health risk assessment?
13. Does state law expressly permit a biometric screening?
14. Best practices?
15. Program evaluation?
16. Does state law specify requirements for health-contingent wellness programs?
17. Does state law specify requirements for participatory wellness programs?
18. Does state law explicitly require that wellness programs must abide by federal law and/or the Code of Federal Regulations (CFR)?

DISPLAYING THE RESULTS

There are two display modes once criteria have been selected by using either the Filter or Explore tab — Map display mode and Profiles display mode.

Map Display

LawAtlas.org dataset homepages default to the map display mode. When querying the data using the Filter tab, all jurisdictions that meet the criteria selected will display in one tone of yellow. Those jurisdictions that do not meet the criteria selected will be colored gray. When querying the data using the Explore tab, the map will illuminate with colors from yellow to red that are associated with the various answer choices (the color-coding is defined by the key to the left of the map).

Below the map, a table will appear. Using the Filter or Explore tab to navigate the questions will change the display:

- Using the Filter tab, you can select an unlimited number of criteria and the applicable jurisdictions that meet the combined criteria will be displayed in the table below.
- Using the Explore tab, you can isolate a single criterion and the applicable jurisdictions will appear in the table below.

Profiles Display

The Profiles display presents the results of the criteria selected in a text-based format for each applicable jurisdiction. Using the Filter tab, jurisdictions that meet the criteria selected will display. Using the Explore tab, jurisdictions that meet the criterion selected will display. If no criteria are selected, the full profiles for each state will appear under both Filter and Explore.

Profile Legend

Within each Profile box, above the questions and answers, there are additional options and information useful in exploring the law:
Toggle Legal Text – Selecting this option will show all the legal text used to answer questions for this jurisdiction.

Toggle Full Place Profile – Selecting this option will show all questions and answers for this jurisdiction, regardless of what was selected using the Filter or Explore tabs.

Toggle Size – Selecting this option will make the profile larger, but will not change the information displayed.

Legal Text History – This interactive timeline displays when changes in the law have occurred within a jurisdiction. Using the arrows to the left or right, users may explore how the law has changed over time as new amendments to the law have been enacted. The timeline will change from gray to a shade of yellow when the jurisdiction passed its first relevant law. Each change in the law after that is marked by a break in the timeline.

Map and Profile Legend
There are a few symbols to be aware of in both Map and Profiles display modes:

Section Symbol – Clicking this symbol will open a window that displays excerpts from the law that correspond to the question and answer.

Caution Note – Clicking on this symbol will open a small window that displays text that describes important caveats about the question and answer.

DATASET RESOURCES
Each dataset homepage includes the following resources available for download:

- Data: The Data file exports in CSV. format and may contain two tabs. The “Statistical Data” tab contains the legal variables coded in the dataset, displayed as values defined in the accompanying Codebook. The “Summary Data” tab contains the legal variables coded in the dataset in text form, as well as the accompanying citations and any caution notes that may be included. Note: if there is only one tab available for download it will be the “Statistical Data” as described above.

- Codebook: The Codebook defines all of the coded variables in the dataset. The Codebook lists the question, question type, variable name, variable value and variable label. The Codebook should be used in conjunction with the Statistical Data extract.

- Research Protocol: The Research Protocol is a comprehensive document that outlines the entire methodology of the project, including the scope, inclusion and exclusion.
criteria, data collection methods, definitions, coding scheme decisions, as well as the quality control process.

- Summary Report: The Summary Report provides a snapshot of important findings from the dataset.

ADDITIONAL INFORMATION

These maps and the data that drive them are the results of a study funded by the RWJF Public Health Law Research, and led by Jennifer Pomeranz at New York University.

For more information about workplace wellness program or related laws, please visit the following sources:

- Association of State and Territorial Health Officials: Worksite Wellness
- U.S. Department of Labor: Fact Sheet & Regulations
- Centers for Disease Control and Prevention: Feature & National Healthy Worksite Program

This collection of workplace wellness laws does not provide legal advice nor does it address enforcement of laws, administrative policies, case law, or any other sources of law. Should you have a specific question about workplace wellness laws in your state, please contact an attorney in your jurisdiction.