



# M&G|exposure

## DON'T MISS THE JULY 31ST FORM 5500 FILING DEADLINE

Contributed by: Keith Dunlop, Director of Compliance and HR

### Overview

Employers with employee benefit plans that operate on a calendar year basis must file their annual reports (Forms 5500) for 2018 with the Department of Labor (DOL) by July 31, 2019. An employer may extend this deadline by two and one-half months (until Oct. 15, 2019) by filing IRS Form 5558 by July 31, 2019. The filing requirement applies to both welfare and pension plans.



An employer must file a Form 5500 for each separate employee benefit plan that it maintains, unless a filing exemption applies. Employers can combine different welfare benefits under a single plan to simplify their Form 5500 reporting obligation.

Small welfare benefit plans (fewer than 100 covered participants) that are unfunded or fully insured (or a combination of unfunded and insured) are exempt from the Form 5500 filing requirement.

### FORM 5500 FILING IS DUE BY JULY 31, 2019

### Employers Subject to ERISA

Each year, employers that are subject to the Employee Retirement Income Security Act (ERISA) must file an annual report with the DOL for their employee benefit plans, unless a filing exemption applies. ERISA applies to virtually all private-sector employers that maintain employee benefit plans for their employees, regardless of the size of the employer. This includes corporations, partnerships, limited liability companies, sole proprietorships and nonprofit organizations. ERISA exempts only employee benefit plans maintained by two types of employers, governmental employers and churches.

### Form 5500 Deadline

The Form 5500 must be filed by the last day of the seventh month following the end of the plan year, unless an extension applies. For calendar year plans, the deadline is normally July 31 of the following year. If the filing due date falls on a Saturday, Sunday or federal holiday, the Form 5500 may be filed on the next day that is not a Saturday, Sunday or federal holiday.

An employer may request a one-time extension of two and one-half months by filing IRS Form 5558 by the normal due date of the Form 5500. For calendar year plans, this extended deadline is Oct. 15. If the Form 5558 is filed on or before the normal due date of the Form 5500 or 5500-SF, the extension is automatically granted.

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## JULY 31ST FORM 5500 FILING DEADLINE (CONT'D)

Contributed by: Keith Dunlop, Director of Compliance and HR

### Penalties

The DOL can assess penalties for noncompliance with the annual reporting requirements, including submitting incomplete Forms 5500 or not filing Forms 5500 by the due date. For example, the DOL has the authority under ERISA to assess penalties of up to **\$2,194 per day** for each day an administrator fails or refuses to file a complete Form 5500. The penalties may be waived if the noncompliance was due to reasonable cause.

The Delinquent Filer Voluntary Compliance Program (DFVCP) was created by the DOL to encourage employee benefit plan administrators to voluntarily file overdue Forms 5500. The DFVCP gives delinquent plan administrators a way to avoid potentially higher penalty assessments by voluntarily completing their late Form 5500s for a year and paying reduced penalties. Plan administrators are eligible to use the DFVCP only if they make the required filings prior to being notified in writing by the DOL of a failure to file a timely annual report.

Contact Morris & Garritano Director of Compliance Keith Dunlop for more information about these important compliance deadlines.

## UPCOMING SEMINARS

Contributed by: Louise Matheny, Human Resources Consultant

### A Conversation with Dr. Ali Michael:

### A White Woman's Story About Understanding Race and Building Healthy Multiracial Communities

**Presented by: Cuesta College**

Thursday, August 8, 2019

6:00pm – 8:00pm \*refreshments and reception at 5:30pm

CPAC at Cuesta College

CA-1, San Luis Obispo, CA 93405

**Speaker:** Dr. Ali Michael, PH.D.

Penn Center for the Study of Race and Equity in Education

**Free to Attend and Open to the Public**

**Registration:** Click [here](#) to register online

### A Conversation with Dr. Ali Michael: A White Woman's Story about Understanding Race and Building Healthy Multiracial Communities

# August 8, 2019 | 6pm - 8pm

Reception with refreshments preceding, 5:30pm - 6:00pm

Harold J. Miessi Cultural and Performing Arts Center (CPAC)  
at Cuesta College

## FREE to attend & open to the public -

Reserve your seat at:

[buildingahealthymultiracialcommunity.eventbrite.com](http://buildingahealthymultiracialcommunity.eventbrite.com)

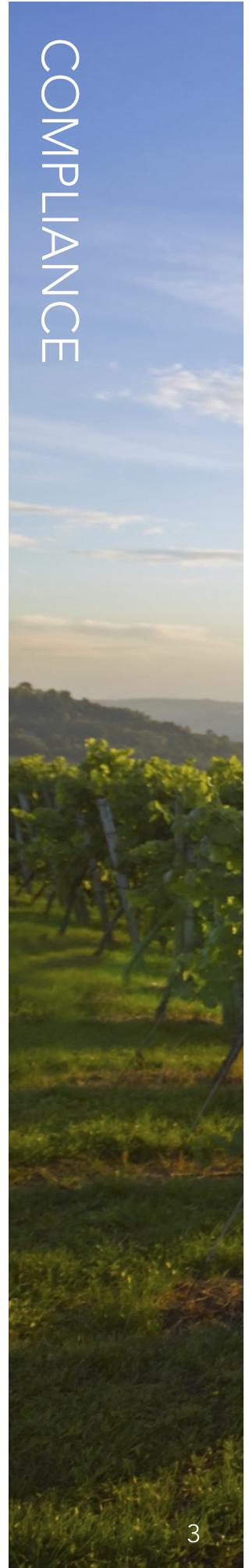
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Ali Michael, Ph.D., is the co-founder and director of the Race Institute for K-12 Educators, and the author of *Raising Race Questions: Whiteness, Inquiry and Education* (Teachers College Press, 2015), winner of the 2017 Society of Professors of Education Outstanding Book Award. She is co-editor of the bestselling *Everyday White People Confront Racial and Social Injustice: 15 Stories* (2015, Stylus Press) and bestselling *Guide for White Women who Teach Black Boys* (2018, Corwin Press). She also sits on the editorial board of the journal *Whiteness and Education*. Ali teaches in the Diversity and Inclusion program at Princeton University as well as the Equity Institute with USC. She is best known for her November 9, 2016 piece *What Do We Tell the Children?* on the Huffington Post, where she is a regular contributor.



COMPLIANCE



## THE ACA IS BACK IN COURT

Contributed by: Keith Dunlop, Director of Compliance and HR

Last December we told you about a new lawsuit challenging the Affordable Care Act (ACA), *Texas v. U.S.*, where a federal judge issued a partial ruling that struck down the entire ACA as unconstitutional. The law will remain in place, however, pending the appeal process and that process has now begun. On Tuesday, July 9, 2019, a 3-judge panel in the U.S. Court of Appeals for the Fifth Circuit in New Orleans, heard oral arguments from the parties.

### Background

The plaintiffs in *Texas* (a coalition of twenty states) argue that since the 2017 Tax Cuts and Jobs Act zeroed out the individual mandate penalty, it can no longer be considered a tax. Accordingly, because the U.S. Supreme Court upheld the ACA in 2012 by saying the individual mandate was a legitimate use of Congress's taxing power, eliminating the tax penalty imposed by the mandate renders the individual mandate unconstitutional. They further argue, the individual mandate is not severable from the ACA in its entirety. Thus, the ACA should be found unconstitutional and struck down.

The court in *Texas* agreed, finding that the individual mandate can no longer be fairly read as an exercise of Congress's Tax Power and is still impermissible under the Interstate Commerce Clause—meaning it is unconstitutional. Also, the court found the individual mandate is essential to and inseverable from the remainder of the ACA, which would include not only the patient protections (no annual limits, coverage of pre-existing conditions) but the premium tax credits, Medicaid expansion, and of course the employer mandate and ACA reporting.

Several states such as Massachusetts, New York and California have since intervened to defend the law. They argue that, if Congress wanted to repeal the law it would have done so. The Congressional record makes it clear Congress was voting only to eliminate the individual mandate penalty in 2019; the record indicates that they did not intend to strike down the entire ACA.

### What's Next

The 5th Circuit will issue its ruling in the coming weeks, but regardless of the outcome, the matter will most certainly end up in the Supreme Court just as the 2020 presidential election is in high gear. Stay tuned for updates as we receive them.

Contact Morris & Garritano Director of Compliance Keith Dunlop for more information about these important compliance deadlines.

## WORKPLACE VIOLENCE

Contributed by: Louise Matheny, Human Resources Consultant

It is an unfortunate reality of today's world that we continue to see violent acts occurring in the workplace. And while mass shootings certainly receive the most media attention, it is important to note that workplace violence can occur on many different levels. According to the Occupational Safety and Health Administration (OSHA), workplace violence is "any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site" and it has some staggering statistics:

- 2,000,000 workers annually report being a victim of some form of workplace violence
- 18,400 non-fatal workplace assault injuries occurred in 2017
- Homicide is the fourth leading cause of fatal occupational injuries in the United States with 458 fatalities in 2017

While there is no guaranteed way to prevent all instances of workplace violence, there are preventative measures that employers can adopt to help mitigate the risk.



### Maintain a Zero-Tolerance Policy

A zero-tolerance policy should apply to physical violence, threats, bullying, and verbal abuse. Establish a precedence of behavior and enforce it when necessary. Employers should also include a grievance policy where an employee can report claims of violent behavior.

### Adopt a Workplace Violence Prevention Policy

Take a proactive approach to workplace violence by establishing protocols that include training for supervisors and employees along with coordination with building managers, local law enforcement, and hospitals so that all parties know how to respond in the face of danger.

Training should include how to recognize the warning signs of a potentially violent person, such as:

- Intimidating, belligerent, harassing, bullying, or other inappropriate and aggressive behavior;
- Numerous conflicts with supervisors and other employees;
- Bringing a weapon to the workplace, making inappropriate references to guns, or fascination with weapons;
- Statements showing a fascination with incidents of workplace violence, statements indicating approval of the use of violence to resolve a problem, or statements indicating identification with perpetrators of workplace homicides;
- Drug/alcohol abuse; and
- Extreme changes in behaviors.

### Utilize an Employee Assistance Program (EAP)

Refer employees to your company's Employee Assistance Program (EAP) or other mental health resources available through their health plan. EAP services can assist workers with issues related to alcohol or substance abuse, child or elder care, relationship challenges, financial or legal problems, and other traumatic life events.

As an employer, it is your responsibility to provide a safe workplace for your staff. By taking a proactive approach to workplace violence and putting an emphasis on the wellbeing of your employees you are taking the steps necessary to deliver on that responsibility.

Source: <https://benefitadvisornetwork.com/blog/workplace-violence/>

## A LOOK AT WORKERS' COMPENSATION FRAUD AND A CALL TO REPORT IT

Originally published in the Employment Development Department's quarterly California Employer Newsletter

Workers' compensation fraud costs the citizens of California billions of dollars each year. It is more than an employee exaggerating a medical condition, workers' compensation fraud can come in other forms such as: health care providers billing for services never performed, employers under-reporting payroll, or attorneys, claims adjusters facilitating claimant fraud, etc.

The consequences of workers' compensation fraud are serious. It is a felony to make a false or fraudulent statement to obtain or deny any compensation. It is also a crime to knowingly assist, conspire with, or solicit any person in an unlawful act of workers' compensation insurance fraud. The same is true for making, or causing, a false or fraudulent statement to be made in regard to entitlement of benefits with the intent to discourage an injured worker from claiming benefits or pursuing a claim. A conviction for workers' compensation fraud may be punishable by:

- Imprisonment up to one year in county jail, or two to five years in a state prison.
- Receiving a fine not exceeding \$150,000, or double the amount of the fraud, whichever is greater.
- Being charged investigation-related costs.
- Being ineligible to receive or retain compensation owed or received as a result of workers' compensation fraud.

Mandatory restitution will be ordered (if convicted) for any medical evaluation or treatment services obtained or provided.

To get more information or to report workers' compensation fraud, call the Department of Insurance fraud hotline number at 1-800-927-4357. You can also visit the [Fraud Division's](#) website to obtain more information and locate the phone number for the Fraud Division office nearest you

Source: [https://www.edd.ca.gov/payroll\\_taxes/pdf/caemp2019\\_2.pdf#zoom=100](https://www.edd.ca.gov/payroll_taxes/pdf/caemp2019_2.pdf#zoom=100)



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If you are interested in learning more about ThinkHR, please contact Louise Matheny at  
[lmatheny@morrisgarritano.com](mailto:lmatheny@morrisgarritano.com).

## AS THE EMPLOYER CAN WE CONTINUE LOST TIME WAGES?

Contributed by: Mary Jean Collins, Workers' Compensation Claims Analyst

### Question:

Our employee was placed off work. Can we continue paying their regular salary while they are recovering? If we continue wages, do we have to file a WC claim.

### Answer:

Yes, you can continue paying full salary wages. However, it is not recommended. There is no motivation for an employee to return to duty if they are paid full wages for staying home. If you continue full wages for one employee out on workers' comp you will set a precedent and have to pay all employees' full wages if losing time due to a WC injury.

Any work-related injury must be reported to the carrier regardless if you are continuing wages, accommodating modified duty, or if the employee was released to full duty.

Lost time wages or temporary disability benefits is two thirds of the employee's average weekly wage or x.6667 of their wages.

If at all possible, we recommend you try to find modified duty for your injured employee. We have found that when an employer accommodates modified duty, the employee tends to recover faster.

Please make sure the doctor is aware that you may be able to accommodate modified duty and send a job description of what may be available.

Please contact our office if you have questions regarding modified duty.

## YOU MAY WANT TO STAND UP TO READ THIS

Contributed by: Michael Schedler, Loss Control Analyst

According to the Mayo Clinic, and several studies performed by various organizations, sitting for a prolonged amount of time could be detrimental to your health. What seems like a harmless non-activity, could actually lead to increased blood pressure, high blood sugar, obesity, or even cardiovascular disease.

Whether it is sitting in front of the TV, at your desk, or behind the wheel, it all adds up! So, what can we do to counter the effects? It's simple really – just move more! Start by standing rather than sitting when you have the opportunity or take it a step further and incorporate some of these activities into your daily life:

- Get up and move every 30 minutes
- Stand or walk while talking on the phone
- Go for "walking meetings" rather than sitting in an office

Any movement is better than no movement and can even bring about some bonus side-effects such as burning more calories, maintaining muscle tone, and increasing your energy and mental well-being.



Source: <http://diet.mayoclinic.org/diet/move/how-harmful-is-too-much-sitting>

## WATCH OUT FOR UNLICENSED CONTRACTORS

Contributed by: Cynthia Horwitz, Personal Lines Department Supervisor

The golden rule in any home improvement project is usually measure twice, cut once. However, should you choose to hire out the handiwork, there is an even more important rule – Hire a licensed contractor.

The Contractors State License Board (CSLB) was established to ensure construction standards and protect consumers because “those who operate without a state-issued license harm the public, tarnish the respectability of the construction industry, and undermine California’s financial foundation by operating in the underground economy.”

CSLB proactively conducts undercover sting operations or sweeps of construction sites to identify those failing to follow contracting laws or regulations. Homeowners are responsible for ensuring they are hiring properly licensed contractors for projects valued over \$500 for labor and material costs.

Not only is it illegal to hire an unlicensed contractor, but you are exposing yourself to a potentially huge risk or liability. Should an unlicensed contractor’s work be faulty or defective, not built to code, or if they are injured on your property, homeowners can be held legally and financially responsible.

A licensed contractor is required to include their license number in all advertisements and on any construction contract. If you are unsure of the validity of a contractor’s license number, you can verify it by running an [“Instant License Check”](#) on CSLB’s website. The CSLB also has a [list of licensed contractors](#) that you can search by city or ZIP code.

Home improvement is an investment. While the lower cost of an unlicensed contractor might be attractive at first, the risk is not worth it and you could end up paying a lot more in the end.

Source: [http://www.csrb.ca.gov/Contractors/Journeymen/Journeymen\\_Unlicensed\\_Consequences.aspx](http://www.csrb.ca.gov/Contractors/Journeymen/Journeymen_Unlicensed_Consequences.aspx)

## BEING READY WITH AN EMERGENCY PREPAREDNESS PLAN

Contributed by: Nick Sullivan, Risk Management Director

Given the recent earthquakes throughout California we want to remind business owners about the importance of having an Emergency Preparedness Plan.

An Emergency Preparedness Plan ensures that all members of your company know what to do in the case of an emergency. And while earthquake safety may be top-of-mind at the moment, a proper plan should cover various forms of emergencies including other natural disasters, crime or violence, and unforeseen accidents.

ThinkHR has put together this helpful guide for developing an Emergency Preparedness Plan. We encourage you to review the information and determine what elements can be utilized within your business to ensure the safety and well-being of your staff and employees.

**Think<sup>HR</sup>**

Whitepaper

**YOUR EMERGENCY PREPAREDNESS PLAN CAN SAVE YOUR BUSINESS—AND LIVES**

Your company is responsible for providing a safe and healthy workplace for all employees, customers, and visitors. Your facility may face risks that include safety from human-caused emergencies, such as crime and violence, as well as natural hazards caused by natural disasters, outbreaks of disease, and accidents. In order to address these safety threats and mitigate risk, employers should have emergency preparedness plans in place.



Emergency Action Plan

**COMPANY NAME:**

**I. POLICY**  
It is the policy of this company to take every possible action to comply with all emergency regulations and protect employees in emergency situations.

**II. EMERGENCY PLAN COORDINATOR**  
Name of person or title is responsible for making sure this emergency action plan is kept up to date, practical, and reviewed periodically.  
The Emergency Plan Coordinator can be reached at \_\_\_\_\_ (location and phone number).

**III. REPORTING PROCEDURES**  
List the types of emergencies that could occur at your workplace and how employees should report them. Options include internal telephone numbers, intercom, public address systems, etc. Employees must also notify external emergency responders if the company uses them for help in emergencies.

Type of Emergency	How to Report
Fire	
Explosion	
Weather	
Bomb threat	
Chemical Spill/Leak	
Violence	
Medical	
Other (list)	

## CONTROLLING YOUR COMMERCIAL AUTO INSURANCE COSTS

Contributed by: Justin Maire, Commercial Risk Advisor

Over the past few years auto insurance rates have been slowly creeping upward. We've discussed this trend with several of the national auto insurance carriers who say there have been numerous contributors to this, including:

- The number of auto accidents has steadily been increasing. It isn't clear whether this is due to more instances of distracted driving, such as texting and cell phone usage, or if it's simply due to the growing number of people on the road. But, either way, it seems that the trend is continuing upward.
- Vehicles cost much more to repair than they used to. Ten years ago, a minor fender bender might have cost a few hundred dollars to repair. But now, with the cameras, sensors, and other features that come standard on most vehicles, that same repair can cost several thousand dollars.

With the cost of auto insurance increasing there are several things a business can do to help control their insurance costs.

- Implement a fleet safety program.
- Register with the [DMV's Employer Pull Notice Program](#) to be notified if/when an employee has a traffic violation.
- Install vehicle telematics systems. Many of these include GPS tracking and show individual driving trends.
- Set driver qualification standards, including disciplinary practices for drivers with multiple violations and remedial training following violations.
- Your insurance carrier may also provide additional services to assist, such as defensive driving and other training programs.

All the practices listed above can help you keep your auto insurance costs down for the long term and many are items that we can assist you with. If you have any questions, please feel welcome to give us a call.



Image: Freepik.com



Image: Freepik.com

## WHAT'S THE DEAL WITH THE SR-1?

Contributed by: Heather Ross, Claims Advocate

If you are involved in an auto accident in California, you may be required to complete an SR-1 form and mail it in to the DMV. Here are some of the questions we commonly receive regarding this form, along with their answers:

### **Do I have to complete the form?**

California law requires that drivers complete and submit the SR-1 form to the DMV *within 10 days* if they are involved in a traffic accident in California in which there's an injury, death, or property damage in excess of \$1,000. This is required regardless of fault, and even if the accident occurred on private property. There are a few exceptions to the law, but since there's no penalty for completing and submitting the SR-1, you're generally better off filling it out. Untimely reporting can result in the DMV suspending your driver's license.

### **Can you fill it out for me?**

Unfortunately we cannot complete the form on your behalf. However, we can assist if you need any help with your insurance policy information or if you'd like us to email you a fillable PDF version of the form.

### **What's the purpose of the form?**

California requires every driver and every owner of a motor vehicle to be "financially responsible" for any injury or damage resulting from owning or operating a motor vehicle. By completing and submitting the SR-1 form with your insurance information, you are demonstrating compliance with financial responsibility requirements.

The SR-1 is also an important prerequisite for submission of a California DMV Form SR-19, which can be used by you or your insurance company to identify other parties involved in an accident, to obtain their insurance information, or receive official confirmation that they don't have insurance.

### **What if I'm missing information about the other party?**

Since one of the primary purposes of the form is to demonstrate your (or your company's) compliance with California's insurance requirements, you only need to worry about providing complete information for yourself. You'll want to include as much information as possible about the other party, but just put "unk" (for unknown) or "none" in any space or box when you don't have that information.

\*\*\*

Completing an SR-1 may feel redundant, especially since you probably already reported the accident to the police and to your insurance. However, the form serves an important function in helping to keep drivers accountable for obtaining and maintaining auto liability insurance.

## WE NEED YOUR HELP TO CELEBRATE OUR ANNUAL EMPLOYEE APPRECIATION PARTY!

August is just around the corner, and that means it is time for M&G's Annual Employee Appreciation Party! If you aren't familiar, this is a week long celebration to recognize and reward the hard work and dedication that our team displays year-round. It is a week full of games, prizes, and fun that culminates with a huge party on Friday. And of course, what's a party without a theme?! This year's theme is....BOARD GAMES! Whether you enjoy being a sleuth detective in Clue or rolling the dice in hopes of a Yahtzee, you can't deny the fun of a good ol' board game!

**To help make this year as fun as possible we could use YOUR HELP!**

We are gathering board games to use throughout the week as part of our party decorations. If you have any board games that you are willing to donate to M&G, we will happily take them off your hands! They don't even have to be complete games—we'll take whatever you've got!

Please email [PartyPlanningCommittee@MorrisGarritano.com](mailto:PartyPlanningCommittee@MorrisGarritano.com) before August 7th if you would like to donate to our celebration! Unfortunately, we will not be able to return the games, but we promise to put them to good use. Thank you!



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