

PEO INSIDE

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COVER STORY

BEING A **CHAMPION** FOR THE INDUSTRY

2021-2022 NAPEO CHAIR

Bruce Cornutt, Lyons HR

THIS MONTH'S FOCUS

MARKETING & SALES

The October PEO
Marketing Push

Marketing the Proven
Value of PEO

The New
Sales Landscape

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► **Bruce Cornutt, Lyons HR,
2021-2022 NAPEO Chair**

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BEING A CHAMPION
FOR THE INDUSTRY

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Beyond Definition

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GREAT IDEAS, GREAT PEOPLE

BY BRUCE CORNUTT

I wasn't looking for a new challenge when I first encountered the PEO industry back in 1995. I was perfectly content where I was, but, more as moral support than anything else, I attended a presentation a friend was making at the local Chamber of Commerce about this new service he was considering launching within his staffing firm. He called it "employee leasing" and he was curious if those local professionals present that day thought it would be a valuable service for businesses in our little town. Not having seen his presentation beforehand, I commented afterwards that I thought he had stumbled upon a powerful idea. Long story short, several conversations later I signed on to be the "sales guy," attended a T. Joe Willy seminar to pick up some knowledge, and

we launched that new service out of an upstairs office at his main staffing location in August of 1996. Six years later, I was part of another scratch launch that would eventually be acquired by Bill Lyons and his team at Lyons HR in 2010.

Today, I am president and CEO of Lyons HR and beginning a year of service as chair of NAPEO. The power of that great idea rerouted the course of my professional life and I am profoundly grateful for the good fortune of being a part of this industry.

Our industry is rich with great ideas and even greater people who've grown and evolved our industry over time. The last 18 months proved time and again that the services being provided by PEOs today go well beyond the simpler value proposition we espoused back when I sold my first case in 1996. PEOs provide

services, products, support, and consulting all across the HR spectrum for their clients. Our industry research has told the story for years now of businesses surviving and thriving because of the resources provided by their PEOs. This current pandemic has amplified that message to the point that it's impossible to deny the advantages of using a PEO for companies of all sizes.



Our industry is rich with great ideas and even greater people who've grown and evolved our industry over time.

We truly have wonderful stories to tell about the impact of PEOs and the power of great ideas. We need to share that message everywhere by every available means.

Maybe we can even coax Pat Cleary into putting on a sandwich sign and roaming the streets of Alexandria, Virginia, near NAPEO HQ! (I *know* we can line up some volunteers to pay for the sign!)

I am excited about the present and the future of our industry. I believe that using a PEO should be a given for anyone thinking of starting up or improving a business—because PEO is a powerful idea! ■



BRUCE CORNUTT

2021-2022 NAPEO Chair
President & CEO
Lyons HR
Gadsden, Alabama



LADIES OF LIBERTY

A SPECIAL THANKS

During the Women in NAPEO (WIN) reception, Soldiers' Angels provided the opportunity for NAPEO members to assemble more than 200 care packages for deployed female service members through their Ladies of Liberty program. Participants also hand-wrote notes of thanks to include in the gift bags as a personalized show of support for the recipients.

THE POWER OF MANY

NAPEO GIVES BACK TO SOLDIERS' ANGELS



The generosity of the PEO industry was on full display at NAPEO's 2021 Annual Conference & Marketplace in San Antonio last month through NAPEO Gives Back.

NAPEO Gives Back's mission is to leverage the "Power of Many" and leave a local charity in our conference city better than when we came. This year's benefactor of NAPEO Gives Back was a San Antonio-based veterans' support organization, Soldiers' Angels. Soldiers' Angels provides aid, comfort, and resources to service members, veterans, and their families through the Veteran's Administration Hospital in San Antonio. The Soldiers' Angels mission is:

- May no soldier go unloved
- May no soldier walk alone
- May no soldier be forgotten
- Until they all come home



Soldiers' Angels had also set up a care package assembly station during the conference where attendees put together care packages. Attendees prepared 832 boxed lunches for San Antonio veterans during the conference.

The NAPEO Gives Back Committee had set a goal of \$75,000, which would feed 11,000 veterans for a full year. Veterans who seek treatment at the VA hospital in San Antonio receive "canteen cards" so they can afford hot meals in the VA hospital cafeteria.

The donations ranged from \$25 to \$10,000. The fundraising effort included a silent auction featuring a spectacular array of prize packages, including a seven-day trip to a private home in Ireland, a seven-day vacation to a Hard Rock resort, a four-day wine tour of Stoller Vineyards, golf at Flint Hills National Golf Club, a hunting trip in Texas, premier seats for San Antonio Spurs and New York Islanders games, and a priceless visit to NAPEO Global HQ with Pat Cleary and the team in Alexandria, Virginia

See the full donor list on page 39.

GOAL EXCEEDED

NAPEO RAISES MORE THAN \$120,000



The NAPEO Gives Back Committee is pleased to announce that the goal of \$75,000 was exceeded. On Tuesday evening, we presented to Soldiers' Angels CEO Amy Palmer a check for \$113,522, and the donations are still coming in. At press time, NAPEO had raised more than \$120,000. You may also still donate to Soldiers' Angels by visiting the NAPEO Gives Back Donation page at <https://soldiersangels.org/donate/napeo>.

On behalf of the entire NAPEO Gives Back Committee, listed at right, and Soldiers' Angels, thank you for making a difference in the lives of those who unselfishly chose to serve our country.

Barron L. Guss, simplicityHR By ALTRES, Committee Chair

Clay Kelley, claykelley.com, Committee Co-Chair

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Michael P. Colucci, Idilus LLC

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Siana Hunt, simplicityHR By ALTRES

Bill Maness, Syndeo Outsourcing LLC

Sean McConnell, Modern Business Associates, Inc.

Christina K. Nelson, Pacific HR, Inc.

Lee C. Yarborough, Propel HR ■

NAPEO's Taylor Oster and Melissa Viscovich, NAPEO Gives Back Committee Co-Chair Clay Kelly, silent auction winners Gordon Berger (Behind the Bench with the San Antonio Spurs), Farrah Fielder (Living It Up with the New York Islanders), David Slavic (Hidden Lakes Hunting Resort Experience), Dawn Lively (Hard Rock Resorts/Palace Resorts Getaway), Becky Brumley Newton (NAPEO 2022 VIP Conference Package raffle prize), and NAPEO's Pat Cleary.



BARRON L. GUSS

*President & Chief Executive Officer
simplicityHR By ALTRES
Honolulu, Hawaii*



CLAY M. KELLEY

*Chief Results Officer
claykelley.com
Arlington, Texas*

THE

October

PEO

MARKET

PLAYS

VARIETY OF 2021 CAMPAIGNS DESIGNED TO MOVE THE NEEDLE

BY KERRY MARSHALL CARRUTHERS

RING SHI

Nothing says “Autumn” like falling leaves, pumpkin spice, and the October PEO Marketing Push!

This is the time when the industry bands together in an all-hands-on-deck marketing effort to raise the profile of our industry and move the needle on industry awareness and visibility.

It’s our belief that if we all commit to marketing for the month, we will make a difference and we will grow the industry. The idea is for everyone to do something this month. If you want to do a few somethings, all the better.

The fact is, our collective marketing efforts are working. PEO awareness is up 15 percent since 2018. The industry is growing like gangbusters: In 2011, the combined 941s of our member companies equaled \$59 billion. In 2018, that number was \$125 billion. Last year, it was up to \$166 billion, even with the significant challenges that the pandemic presented.

STATISTICS SPEAK VOLUMES

Speaking of the pandemic, in our view, PEOs are the unsung heroes of the pandemic—basically the front lines behind the front lines—helping small and mid-size businesses survive through this unprecedented and unexpected global event. The exclusive industry research we just unveiled during NAPEO’s Annual Conference & Marketplace late last month bears that out. Our economists, Laurie Bassi and Dan McMurrer, studied how PEO clients have fared from early 2020 through July 2021 across a broad

When it comes to **benefits**

When it comes to **HR**

When it comes to **compliance**

When it comes to **payroll**

When it comes to **the unexpected**

NAPEO Statistics Video

It's our belief that if we all commit to marketing for the month, we will make a difference & we will grow the industry. The idea is for everyone to do something this month. If you want to do a few somethings, all the better.

NAPEO Client Testimonials Video

PEO clients in their own words. *During the pandemic, small businesses faced many challenges; here is how their PEO partners were right by their side.*



Laura Marlowe
Owner of Marlowe
HR Florida, LLC



Eric Sible
President and CEO
Pinnacle Group Corp.



Brenda D. White
Owner of The Wood

During the pandemic, PEO clients:

are 119 percent more likely
to have received a PPP loan in Round 1

During the pandemic, PEO clients:

are 58 percent less likely
to have permanently closed

During the pandemic, PEO clients:

are 82 percent more likely
to have business operations
back to normal (or better)

During the pandemic, PEO clients:

have a rate of employment growth
over the last 6 months that is:
81 percent higher

From Survive to Thrive
with a PEO

range of measures in three broad categories: business operations, changes in employment, and success in accessing major government support programs. They found that PEO clients:

- Are 58 percent less likely to have permanently closed;
- Are 32 percent less likely to have seen a negative overall effect on business from the pandemic;
- Are 82 percent more likely to have business operations back to normal (or better);
- Have had employment growth by 1 percent since early 2020 (compared to a 6 percent decline for comparable small businesses);
- Have a rate of employment growth over the last six months that is 81 percent higher;
- Are 18 percent more likely to have had their 2020 Payroll Protection Program (PPP) loans forgiven; and
- Are 71 percent more likely to have received PPP loans in 2021.

NAPEO's newest marketing campaign uses these stats to hammer home our latest ad theme: From Survive to Thrive with a PEO. Not only can a PEO get you through challenging times and help you deal with the unexpected, a PEO is the partner you need to grow and thrive. Find the video at napeo.org/octoberpush.

THE POWER OF CLIENT TESTIMONIALS

We also created a moving video featuring PEO clients explaining, in their own words, how their PEOs helped them make

Your PEO partner will help you overcome the **odds**

Your PEO partner will help you overcome the **obstacles**

Your PEO partner will help you overcome the **challenges**

Since the pandemic began, businesses partnering with a PEO are

32% less likely

to have seen a negative overall effect on their operations

From **Survive** to **Thrive** with a PEO

it through the pandemic and how they may not be in business today had it not been for their PEOs. When the team at LGND, the firm we worked with on the video and all of our marketing efforts, played the video during their presentation on the final day of the conference, there were a few teary-eyed folks in the room, and some who said they got goosebumps. You can view the video at napeo.org/testimonialvideo.

We'll use the video and other shorter testimonial videos in our efforts to tell the PEO story on behalf of the industry. Because we know that every PEO will want to tell its own story, NAPEO members can work with LGND to create their own custom testimonial videos, using clients of their own, for only \$2,500. This can be purchased through the NAPEO Online Store at napeo.org/store.

A SERIES OF CAMPAIGNS

In addition to these video resources, we have a robust library of social media graphics and gifs that can be used for both ads and organic posts. The materials are a compilation of all of the advertising campaigns NAPEO has produced with LGND this year, and, as you'll see, NAPEO really upped its advertising game on behalf of the industry this year.

Our first ad campaign of the year used images and snippets from last year's humorous live action video, "A Better Way," to spread the message that a PEO can help alleviate some of the frustrations and pain points that come with running a business.

A Better Way Campaign



You Deserve Better Campaign



Return-to-the-Office Campaign

Want expert advice on how to navigate the new back to office reality?



Partner with a PEO.



Did your team decide remote was the way to stay?



Partner with a PEO for expert advice navigating remote work.



Trouble finding new talent in your industry?



Partner with a PEO.



Our second campaign was centered around the theme, “You Deserve Better” and used illustrations comparing something that’s not so desirable, like canned meat, with something that is better, like filet mignon. The ad copy focuses on how a PEO is a step above typical HR and payroll outsourcers.

The third campaign uses stylized graphic images and focuses on messaging that looks at the new realities of work in 2021 and how PEOs can help their clients make adjustments and be successful in areas such as return-to-office, remote work, and hiring/onboarding.

TELLING THE PEO STORY

We’ve created dozens of assets that can be used during the October PEO Marketing Push and beyond to help tell the PEO story. After all, if we don’t tell it, nobody will! If you need some help figuring out how to capitalize on all the tools in the toolkit, just refer to our Launch Guide, which contains detailed guidance and tips on how to make the most of all of the marketing resources available. Everything is available on our Marketing Resources page at napeo.org/marketing, under the October Push heading.

Don’t forget to share your October Push efforts with us so we can highlight them on our own social media channels, in *PEO Insider*,® and on our website. Let’s make 2021 our best year yet! ■



KERRY MARSHALL CARRUTHERS

Vice President, Marketing and Communications
NAPEO
Alexandria, Virginia

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Marketing The Proven Value of PEO

LESSONS LEARNED FROM POWERING MY PEO THROUGH A PANDEMIC

BY HEATHER KEEFER SAULSBURY

It's no secret that professional employer organizations felt the secondary impacts the pandemic had on small and mid-size businesses. As those businesses had to temporarily or permanently shut down last year, their use of PEOs dropped at the same rate. Recovery has started despite those challenges. Though it's slower than we'd prefer and not always linear, there are clear lessons that have impacted our strategy with retention, marketing, and sales.

THE MARKET FRAMEWORK CHANGED FOR PEOS & SO MUST WE

The market itself has changed and different businesses are recovering more quickly than others. Our marketing and sales strategies have had to realign with those trends in recovery. That means our tactics have become more granular and the days of casting a wide net for prospects are long gone. From our viewpoint, construction and e-commerce are the largest sectors of growth opportunity. Not only have we pivoted to a more specific target audience, our message has also changed to fit the priorities of that audience. We know the market is price-sensitive and businesses in all stages of recovery are reluctant to increase their expenses. That has meant service offerings have been reprioritized. Here are a few examples:

- Instead of speaking to broad topics such as PEO workers' compensation importance, we shift to a much more granular topic for marketing education. Topics such as "The Importance of A Paper Carriers" or "Onsite Occupational Safety and Health Administration Training" more deeply lend relevance to workers' compensation services through a PEO.

- Instead of leading with corporate culture, we lead with leadership training and employee assistance programs.
- We set a do-more-with-less expectation for benefits: Business owners are looking to keep the budget leveled but to also provide more value, appreciation, buy-in, and loyalty from employees.

METRICS HAVE ALWAYS MATTERED FOR PEOS, BUT NOW THEY MATTER MORE

Subjectively, it's clear that the PEO consumer doesn't want a PEO for service alone, but as a true partner. Although the market is tight, prospects tend to be more qualified, serious, and vetted.

We've used metrics from our customer relationship management (CRM) system and real-time client interactions to keep our finger on the pulse of what business owners care about. Here are some key takeaways from the last 12 months:

- **90 percent of June's new CRM submissions were benefit-driven:**
 - When it comes to benefits, owners want the same fees for much stronger plan designs.
 - Other wants: health plans that allow for out-of-network care,



Not only have we pivoted to a more specific target audience, our message has also changed to fit the priorities of that audience.



reduced telemedicine service fees, concierge service, and one-on-one benefit enrollments.

• **Get more granular in proposal conversations:**

- Prospects want to hear about the day-to-day value you'll create for them and their teams.
- Build the partnership feel. Peel back the curtain and talk through your decisions. I recently shared with a client how we decide on new technology choices.
- Track and share how you and your team measure customer satisfaction.

• **Leverage trends in client inquiries:**

- CRM ticket tracking with human resources and payroll departments will help to keep a pulse on client and market needs such as Payroll Protection Program (PPP) loan forgiveness, vaccine mandates, and concerns about staff remote work issues. Get marketing ideas from the source, your consumer.

more for our existing clients and to source new ones, often with less staff and resources ourselves. We've doubled down on the lesson learned that a highly targeted marketing and sales approach to the most viable industries and prospects gets greater return on investment (ROI). We've also regularly tied in feedback from our existing clients to better frame our proposal conversations to fit with a trend toward business owners doing more than just "checking the block" with a PEO. They're in search of true partnerships to weather the ups and downs of what can happen in the face of a watershed event like the COVID pandemic.

Regardless of your starting point, I avidly recommend capturing metrics around customer satisfaction, staying attuned to the inquiries your team fields from your clients day-to-day, and staying fluid in how you structure your marketing messages and sales conversations. The most compelling service priorities may change by the end of the year. Without a mechanism to stay on top of it, your retention, marketing, and sales messaging will fall flat. ■

**A PHRASE IN PRACTICE:
DOING MORE WITH LESS**

As the recovery journey continues, we have and will continue to find ways to do



HEATHER KEEFER SAULSBURY

VP, Sales & Marketing
StaffLink Outsourcing, Inc.
Sunrise, Florida

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HOW PEOs CAN LEVERAGE EXPERIENCES TO CONTINUE BUILDING THE VALUE PROPOSITION

BY LARRY SHAFFER

The pandemic exposed the strengths and weaknesses of many businesses, testing the viability of many long-held processes and procedures. The most valuable revelation was the importance of their people. Suddenly, employers shifted their focus to address this most critical asset. Business leaders were now forced to make critical decisions around their employee's physical health, emotional well-being, remote work arrangements, safe environments, and more.

This emphasis on people provided a significant boost for PEOs serving as strategic partners to help clients with increasing HR needs. At the same time, clients gained a better understanding of the crucial role co-employment plays in the success of their businesses. They had a trusted lifeline to rely upon when countless employer-related issues were inundating them and their business

models were being challenged. It also became quite apparent that building stronger relationships at every level and between various entities is a high priority.

Although these interactions have always been important, they became magnified and elevated when HR took the spotlight. These dynamics have created the perfect storm for PEOs to rethink their marketing initiatives and change their approach. When PEOs transition to people-centered solutions, they can become more relevant to business leaders who are interested in taking care of their people. Marketing the human side of the business, which emphasizes that people matter, can be a differentiating factor for PEOs.

By leveraging last year's experiences and viewing their offerings through a people-focused lens, PEOs can continue building their value propositions. Some

areas for marketing leaders to consider are discussed below.

HOSTING CLIENT EVENTS

Are client events beneficial? Human connection is vital to building and maintaining strong relationships. After an extended period of social isolation, it is more important than ever for people to reconnect with peers and business associates, reestablish interpersonal skills, and extend their business networks. Hosting events, virtually and in-person, for clients and their guests presents a great opportunity to extend the PEO value proposition through carefully crafted presentations and webinars. It is also a good idea to include members of the service team to help humanize their roles and establish stronger relationships. The events not only demonstrate client appreciation, but they also offer clients an opportunity to extend their networks. It might expose clients to some PEO services they have not used previously as well. Of course, the PEO benefits by providing another touchpoint with clients and generating referrals.

EMPHASIZING CLIENT TESTIMONIALS

How did PEOs help clients during the pandemic and post-COVID? Client testimonials, especially in video format, play a significant role in sharing the human side of the business. There is no better way for prospects to learn about the advantages of using a PEO and the co-employment relationship because they can relate to someone who faced similar issues. Conduct interviews with clients in various sectors to learn more about their experiences and greatest HR needs. There will most likely be a recurring people-oriented theme that marketing leaders can capture for use on websites, as part of a digital advertising campaign about taking care of your people, and during sales presentations. Quotes can also be pulled for use in marketing collateral



pieces. NAPEO's new video featuring PEO clients talking about how their PEOs helped them through the pandemic is a perfect example of this concept.

IDENTIFYING TOP HR ISSUES

What are the most frequent HR issues addressed by the service team? The answers to this question can provide a perfect springboard to redirect marketing messaging that resonates with prospective PEO clients. An informal poll of service team members can quickly provide valuable nuggets to advance marketing efforts. Compiling diversity, equity, and inclusion (DEI) statements, supporting employees' mental health, remaining in compliance with myriad employment laws, statutes, and regulations, updating employee handbooks,

HR professionals is a phone call or email away, it provides much-needed reassurance that is key to continue building the PEO value proposition.

COLLABORATING WITH SALES EFFORTS

Why is it important to break down silos? When sales and marketing teams collaborate, it makes both departments stronger, leading to greater organizational success. There is much that can be learned to help improve marketing collateral and sales presentation efforts. When marketing professionals shadow sales consultants on calls and presentations, they have an opportunity to identify additional ways to help support the sales team in a real-world setting. When interactions are not face-to-face, unique digital marketing tools can enhance the

have a competitive advantage in the marketplace because business leaders feel reassured meeting the team members who will be supporting them. This enables the prospect to gain a thorough understanding of the service team's various roles and functions. Service people are ultimately the caregivers for clients, and for many business leaders, the people—rather than the service—can be the deciding factor.

MEASURING RESULTS

Will a people-centric approach work? People have always been critical to the success of a business, but now more than ever before they are taking center stage. Inspirity's culture by design has been people-focused since the company's inception more than 35 years ago. When you take care of your people, employee

This emphasis on people provided a significant boost for PEOs serving as strategic partners to help clients with increasing HR needs. At the same time, clients gained a better understanding of the crucial role co-employment plays in the success of their businesses.

providing assistance with various workplace arrangement models, and addressing workplace safety are some of the issues business leaders are facing.

REINFORCING THE VALUE OF A KNOWLEDGEABLE PARTNER

What difference can a partner make? In all PEO sales and marketing messaging it is critical to continue stressing the value of having a knowledgeable partner supporting business leaders through thick and thin. As is the case in most areas of life, the load is lighter when it is shared. The co-employment relationship is a perfect example of sharing the employer load as PEOs help businesses take care of their people. When business leaders realize that a team of experienced

experience and support the PEO value proposition. Members of the sales team can meet monthly with marketing professionals to learn about upcoming initiatives and provide their insights from a sales perspective. It is important to remember that no matter the method, in-person or virtual, successful sales efforts are based on building and maintaining strong relationships.

INTRODUCING THE SERVICE TEAM

How important is the service team in the sales cycle? People-focused PEOs understand how important it is to involve the service team in prospecting calls, which can be a differentiating factor in the sales process. Introducing the PEO's dedicated service team during a prospecting call can

retention, engagement, morale, and productivity increases. This approach has served the company well through both good times and challenging times. Based on a proven track record, it is well-positioned for continued success.

When sales and marketing departments place a keener focus on the people aspect of the PEO offering and refine their messaging to reflect this initiative, they will extend the value proposition and achieve greater success now and in the future. ■



LARRY SHAFFER

Senior Vice President
of Marketing and
Business Development
Inspirity
Kingwood, Texas

THE NEW



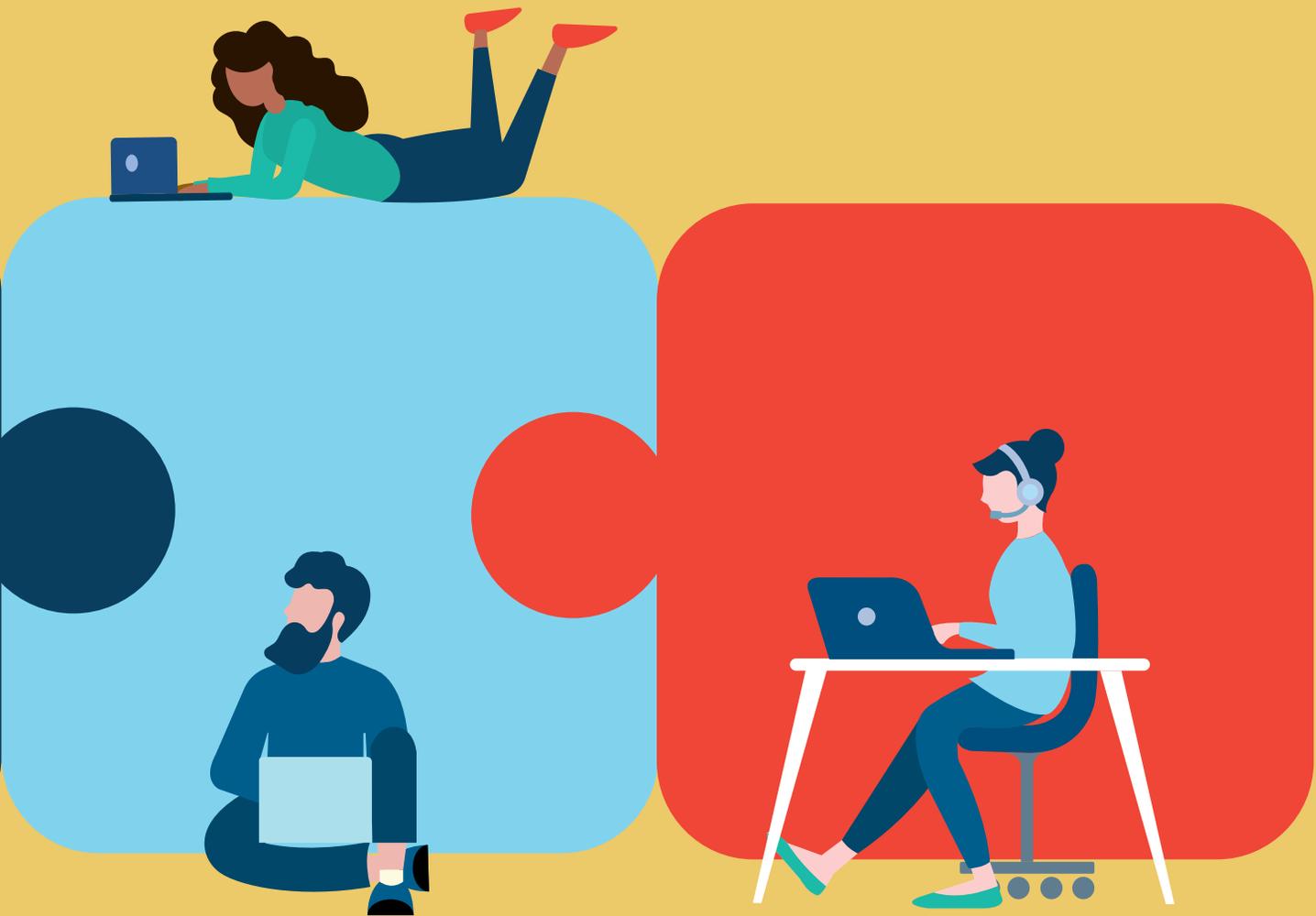
SALES LA

THANKS A LOT, COVID

NO REALLY, THANK YOU COVID: A NEW APPROACH TO SALES & MARKETING

BY ERICA BRUNE

A year ago, our team launched an extensive digital marketing plan in response to the pandemic. We dialed up our marketing campaigns and introduced a steady stream of social media content for our community. Aside from our digital marketing efforts, we also introduced our strategic marketing plan, which is not a new concept by any means, but we were looking at it with an effective focus. Our relationship-based marketing plan focused on finding the right strategic



NDSCAPE

partnerships and crafting a marketing plan to sustain those relationships.

STRATEGIC RELATIONSHIPS—TEAMWORK MAKES THE DREAM WORK

So, what is a strategic partner? A strategic partner is another business with whom you enter into an agreement that aims to help both of you achieve more success. No matter the industry, a strategic partner can help your business grow. It is a successful marketing maneuver for any entrepreneur

or business owner who is looking at what is next for his or her business.

Why should a business use strategic relationships?

- **Access to new customers.** When you begin a strategic partnership, you begin to reach your partner's clients as well. This is an effective marketing strategy and will help you grow your clientele. Strategic partnerships also help expand your brand's reach and

awareness to those new markets. Once you partner with someone who is an expert in his or her field, you are considered an expert by extension.

- **New markets.** Working with a business that is not in the same industry as you and may not have the same target market as your company will help you enter new markets and expand your reach.
- **Added value.** While gaining access to new markets and new audiences is a

The pandemic forced physical limitations on the traditional sales process, as showing up to a prospect's office was no longer a safe venture. There was no longer a door to knock on.

great way to grow your business, it's also important to be able to retain your current clientele. A strategic partnership can add value to your company and expand what you can offer.

How do you select the right partners?

- **Narrow your field** to 15 strategic partners who are either in your field or in a vertical you want to grow your business into.



- **Find partners who align** with your objectives and want to help your clients succeed.
- **Find partners who have influence** over large groups in your chosen vertical

A NEW WAY TO MARKET

In addition to growing the relationship side of our plan, we also had to create a strategic marketing plan. This was crafted in response to the way the market is now: no cold calling, door swinging, and networking events. Our team outlined the major avenues we would need to take to build and sustain our strategic relationships:

- **Schedule virtual meet and greets** to learn and get to know one another's business models.
- **Offer complementary webinars** for partners to learn about your services.
- **Publish industry-related content.** Research local and regional publications that appeal to your target market.
- **Design and produce monthly email marketing campaigns** that show your value. Use these emails as a monthly "touch base" to understand how partners and their clients are doing and stay top of mind

AN EVOLVING PROCESS

The pandemic forced physical limitations on the traditional sales process, as showing up to a prospect's office was no longer a safe venture. There was no longer a door to knock on. Many offices were remote and calling the office line didn't guarantee you

a conversation. The concept of a cold call not only became obsolete due to the push for more strategic avenues, but also unfeasible in a pandemic workforce.

Scheduled events such as trade shows and conferences were cancelled and rescheduled, which left holes in companies' marketing plans and budgets. For many companies, events were their main revenue-generators and they had to re-think what they could do. Companies were relying on strategic partners and trusted advisors to help them cultivate and create new relationships. In a time when online scams are at an all-time-high, having those trusted partners you can turn to became vital to a company's sustainability.

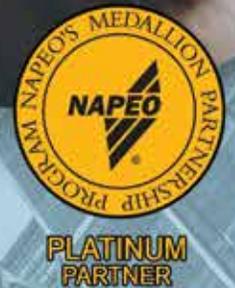
Strategic partnerships are not a new approach to the sales process, but with the stress of a pandemic on our backs, they became a main feature of our marketing efforts. It is a long game to play to develop the trust and close the first deal, but once you show your strategic partner's clients the value, the lead flow intensifies. A professional, persistent, and holistic approach along with a commitment to allow for the relationships to build over time are key factors in securing and sustaining quality strategic partnerships. ■



ERICA BRUNE

President
Lever1
Leawood, Kansas

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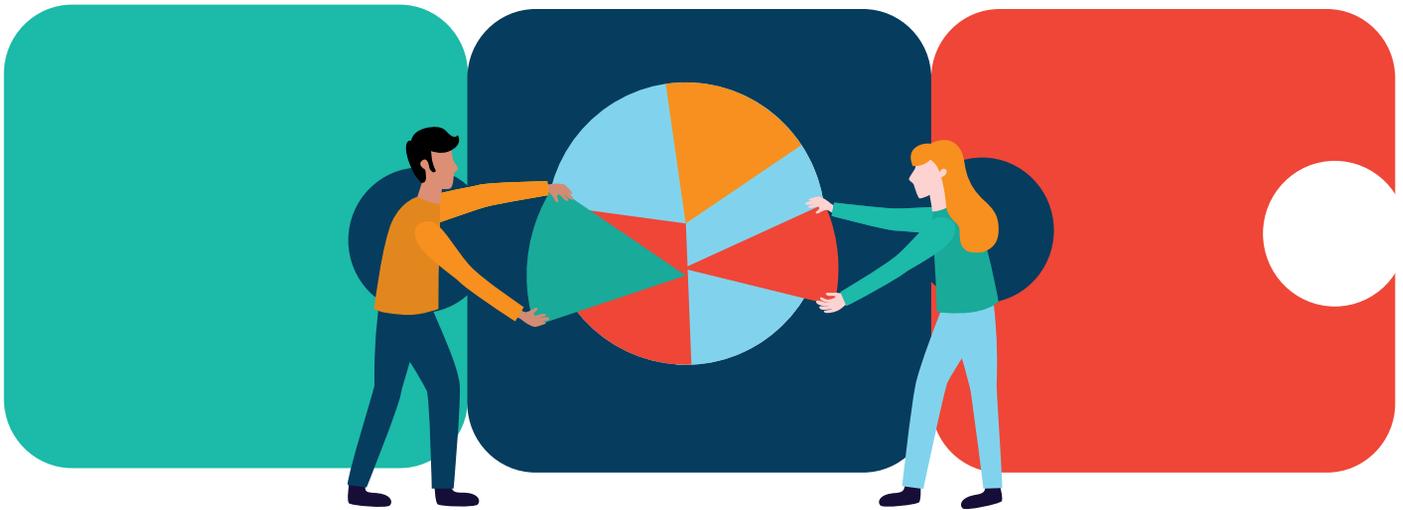


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PEO SALES IN TODAY'S BUSINESS ENVIRONMENT

BY ANDREW SOWELL

The pandemic has forced businesses to be more open-minded about how they structure and run their organizations. Small business owners who have “always done it this way” are now seeking new methods to remain competitive and grow in the current economy after being heavily impacted by the pandemic.

Business owners are becoming more aware of the importance of human resources functions, talent strategies, and concepts like HR outsourcing. Many small business owners and company leaders have become more interested in learning about how PEOs can benefit their businesses through solutions to compliance, recruiting, and retention challenges brought to the forefront during the pandemic. The future of work is now, and it is vital for PEO sales teams to continue to create transparent relationships that help businesses recover, grow, and thrive.

FULL CIRCLE: IN-PERSON IS BACK

In today's economic landscape, the world of sales is coming full circle. Prior to COVID, email, door-to-door sales, and personalized calls were the differentiators. During the intense periods of isolation throughout the pandemic, salespeople nationwide were forced to find creative ways to make connections virtually. Many prospects were bombarded with emails, webinar invites, and automated messages. Now, as society transitions back to pre-pandemic norms, in-person interaction is once again the differentiator.

For the PEO industry specifically, Chamber of Commerce events, trade shows, and in-person sales outreach introductions are back and provide opportunities for sales teams to build vital relationships. Improved responses and reciprocity to in-person sales efforts and initiatives shows that many

people both inside and outside of sales value the human interaction that was missed during the periods of isolation during the pandemic.

TECHNOLOGY STILL HAS A PLACE

With technology underpinning remote work and social distancing throughout the pandemic, we need to recognize that some prospects may now prefer virtual communications. Salespeople have adapted and grown accustomed to leveraging technology to be as efficient as possible. Since the start of the pandemic, we've found increased success with optimizing features on LinkedIn such as liking company posts and connecting with prospects by sending personalized, helpful, and relevant messages. We've also started featuring company posts in the “Featured” section of our personal profiles to create interest and drive traffic to our website.

Many people on our team discovered increased engagement when using innovative video apps to create and send personalized recorded messages. Prospects will often respond with interest and ask questions about the

During the pandemic, many prospects were bombarded with emails, webinar invites, & automated messages. Now, as society transitions back to pre-pandemic norms, in-person interaction is once again the differentiator.

video's content. The content should be your original, creative spin on selling PEO services and should be informative. We also use this service to follow up on previous meetings by including a recap of what was discussed as well as action items for next steps. We've found this specific sales tactic has been extremely impactful throughout the pandemic and in the emerging post-pandemic world. I always like to make the video feel as genuine, helpful, and fun as possible. I usually opt for an unscripted, one-take method of recording. I believe this method makes the message more personal and relatable rather than generic or robotic sounding when I use a script.

CUSTOMIZED COMMUNICATION

Ultimately, identifying the prospect's communication preferences is the best bet in today's era of remote and hybrid work environments. If the relationship is too fresh to identify or ask if the prospect prefers communicating in-person and/or via technology, it doesn't hurt to give both methods a try and gauge the response to each one. My team has found a triple-touch tactic to be effective when reaching out to prospects. We first try a phone call, then video email, and finally, a LinkedIn message with an invitation to connect. We are then able to determine the prospect's preferred communication

method—which could be a combination of both in-person and virtual methods—to use based on how the outreach methods are received.

GREAT VALUE OF PEO

COVID has resulted in the creation of many new state and federal employment law compliance implications for businesses for vaccinations, safety practices, paid sick leave, unemployment tax accounts, wage rates, work-from-home policies, and more. This provides an opportunity for sales teams to market that their PEO offers compliance guidance for solutions to the latest employment laws, a concern for many business owners who may not know where to begin. A specific advantage that should be pitched is that PEOs help companies who are hiring out-of-state candidates for new remote work job opportunities comply with requirements of state hiring, drug testing, and payroll tax regulations.

I believe the world of PEO sales can also benefit from explaining how a professional employer organization can offer a pick-and-choose selection of services catered to the prospect's business goals. When showcasing how PEOs offer a variety of integrated HR services such as payroll, benefits, tax administration, on-call human resources, and regulatory compliance assistance, it is valuable to clarify that a combination

of customized services may be selected. This helps to gauge the prospect's areas of need and level of interest.

We've also found that mentioning PEO technology (your human resources information system (HRIS)) and how it can manage everything from applicant tracking and onboarding to performance management and time tracking may strike a chord. Particularly if the prospect is looking to improve its people management and hiring functions. Regardless, you can't go wrong with positioning your PEO as one that leverages the latest technology that serves to improve processes and drive efficiency.

As a second-generation, family-owned company in business for more than 50 years, LandrumHR is proud to be a dedicated HR partner to support local business needs. Our breadth of services allows us to create innovative HR strategies that makes the business of people easier. Our integrated HR solutions are provided by our people, our one-on-one relationships, and technology. Our mission is to work together to enrich lives by building personal relationships that are centered around trust. ■



ANDREW SOWELL

Director of Business
Development
LandrumHR
Pensacola, Florida

2021-2022 NAPEO CHAIR BRUCE CORNUTT

BEING A CHAMPION FOR THE INDUSTRY

BY CHRIS CHANEY

Bruce Cornutt is the president & CEO of Florence, Alabama-based Lyons HR. He was elected to the position of chair of NAPEO's Board of Directors on September 28 during NAPEO's annual member meeting in San Antonio, Texas. He had previously served as vice chair and is the recipient of the 2017 Michaeline A. Doyle Award, the industry's highest honor. He recently spoke with *PEO Insider*® to share a little about his professional background, where he sees the industry headed, and how he hopes to guide the association.

HOW DID YOU GET INVOLVED IN THE PEO INDUSTRY? WHAT WERE YOUR FIRST IMPRESSIONS?

The first time I heard about the PEO model was in 1995 and I thought it was the best idea I had ever heard about. I had been in the insurance business and also worked at a church as an administrator and youth program leader, but in 1996 I signed on as the "sales guy" with a friend of mine who was starting PEO services out of his staffing firm. I thought the PEO model was a powerful idea to help small businesses.

HOW WOULD YOU DESCRIBE YOUR COMPANY'S BUSINESS MODEL & PHILOSOPHY?

Our business model is not flashy, but it's solid as a rock. We provide all the tools a

small business needs to be in business and to do business well. Our clients know that every dollar they pay us is accounted for wisely. Bill [Bill Lyons, company founder] has a finance background and started the company as a staffing company in March of 1995 and entered the PEO space in 2008 after a conversation with a staffing client. Bill immediately began the ESAC [Employer Services Assurance Corporation] accreditation process because he believed the process behind accreditation was a solid basis for building our financial systems. Our business philosophy is to be a strong, reliable, and progressive partner for our clients.

Internally, we have a set of values that guides our lives as employees of Lyons HR that includes integrity, accountability,

adaptability, and fun, among others. We spend a lot of time together, so we make it a point to enjoy that time. We want Lyons HR to be the best place our employees ever work, and we want them to retire from here. By promoting a positive employee culture and focusing on taking care of our people, we know they will in turn take care of our clients. People won't invest their lives in something they don't enjoy. Hospitality is a big part of Southern life, so part of our fun is being hospitable with our people.

YOU RECENTLY BECAME CEO OF LYONS HR IN ADDITION TO YOUR ROLE AS PRESIDENT. HOW IS THIS NEW ROLE DIFFERENT? WHAT IS YOUR VISION FOR THE COMPANY?

I feel the weight of being responsible to our staff even more than I did as president because there's more invested in the title. I'm honored that Bill gave me the keys to the car so to speak. I'm humbled by the opportunity and excited about our prospects to continue the growth trajectory.

Starting as an Alabama-focused operation, we grew into a large regional footprint and now, increasingly, a national one. I want to keep branching out and continue that creep across the country. It's fun doing what we do so we want to do more of it!

WHAT IS YOUR VISION FOR THE PEO INDUSTRY? WHAT CONTINUES TO INSPIRE YOU ABOUT THE INDUSTRY?

I feel like an evangelist sometimes because I get my biggest kick out of letting people who have never heard the story know that this is the best small business model that exists. Explaining our value proposition takes more than 30 seconds, so it is a model that spreads by engaging with prospects relationally and letting them know the value of what we do.

I really think the industry must enlarge its tent; there need to be more and more people who see the value and the opportunity of launching a PEO.



2021-2022 NAPEO Chair Bruce Cornutt

From an association perspective, we need to do more to engage communities where there are not PEOs present. Many of these different communities would have entrepreneurs adopting the PEO model and creating PEOs if they just knew about it. We need more people telling our story and a greater number of well-trained sales folks. I'm a huge supporter of folks like Clay Kelley. I'd love to see 100 Clay Kelleys teaching the next generation of PEO professionals how to position the model with prospects and show the real value.

Spreading the message and enlarging the tent among entrepreneurial communities is critical. I can think of no reason why a 20-person HVAC company or a 75-person law firm wouldn't be in a PEO relationship. One of our clients was starting a retail operation a few years ago and was searching for something to help him manage. After a conversation, he immediately saw the value of PEO. He just opened his ninth location. He's told me that wouldn't have been possible without us. Our system is immediately scalable for a small business as it grows, and that's a big part of the value proposition.

We all benefit when more voices contribute to the conversation. The Bible

says there's wisdom in a counsel of many elders. I think of that as, "If we both agree on every single point then one of us is not necessary for the conversation." I think we benefit when more and more people have opportunities to start or become clients of PEOs.

WHAT IS THE BIGGEST OPPORTUNITY FOR THE INDUSTRY TO GROW?

Strategic marketing as well as finishing the licensing footprint across the country are vital. We should put more energy behind reaching businesses who have never used a PEO. Operators need to mine that vein. There's far more volume of opportunity in selling to non-PEO clients than current PEO clients. We need to finish the licensing effort to increase the possibility of consistency across the country.

WHY DID YOU INITIALLY JOIN NAPEO & SEEK TO BECOME INVOLVED?

I was involved with two start up PEOs before Bill acquired the second one. That's how I joined Lyons HR. Neither of those companies had the means for me to be involved with NAPEO other than going to a few Sales Quest conferences. I had seen the value of collaborating with people in the industry and because Lyons HR was already active in NAPEO, a big focus for me was jumping in and getting involved. It's great to be able to say, "I don't know how to do this," and then have someone else say, "I do."

There's a collaborative nature among members that helps us learn and cross bridges we didn't know how to cross. Just having dinner with someone who operates in a different part of the country can bring up new issues that we hadn't thought of before. The openness of other PEO operators to share their experiences is wonderful; it's master's level education that's not offered anywhere else.

HOW DO YOU SEE YOUR ROLE AS CHAIR? WHAT ARE YOUR PRIORITIES?

My role is to be a champion for the industry and to advance our efforts to

increase the industry's footprint and increase opportunity for others to own and operate PEOs. We also need to be focused on the long-term future and make sure the industry is solidified for the next generations of PEO owners. We're still a relatively young industry.

WHAT LESSONS HAVE YOU LEARNED THIS PAST YEAR?

For me, the big thing has been how much more important our model is to our small business clients. We have become so many things to our clients over the last 18 months. Our HR team even became emotional support for many clients. Our team pivoted on a dime, never missed a deliverable, and even broadened what we do. I've been incredibly inspired by what our people do for our small business clients across the country. Our folks are just superb.

OTHER THAN AUBURN FOOTBALL, WHAT ARE YOUR INTERESTS & PASSIONS OUTSIDE OF WORK?

Since my wife passed, some of the things we enjoyed together have changed, but one that hasn't was the love of being on the water. We have a pontoon boat, which is basically a floating patio, and I go out on the lake and enjoy conversation with my daughters, family, and friends. I really enjoy being out on the water; that's been healing for me. I also play the guitar and serve as a worship leader at my church. But I also really do enjoy Auburn football. Several years ago, a dear friend adopted me and my late wife into his Auburn tailgating group. Each game when we get together, it's always such fun to hang out and eat and talk all day long. It's like a family reunion seven or eight times a year. Football has become secondary to the relationships. ■



CHRIS CHANEY

Member Communications Manager
NAPEO
Alexandria, Virginia

NAPEO 2021 ANNUAL CONFERENCE & MARKETPLACE

SEPTEMBER 26 TO 29



Pat Cleary and Burton Goldfield of TriNet Group, Inc. kick off their Fireside Chat with a fist bump.

If you were one of the 825 attendees at NAPEO’s Annual Conference & Marketplace this year, you likely observed several trends and themes throughout the event.

First, people were so glad to see each other in person after two years that they could hardly contain themselves. Attendees were engaged and enthusiastic.

Second, great ideas and connections popped up frequently. What we’ve endured and learned from the pandemic has continued to inspire new ways to do things. In the opening general session, Future of Work Expert Cheryl Cran revealed that her organization, NextMapping, predicted beforehand that by 2020, 50 percent of the workforce

would be remote, without predicting the pandemic. PEOs have been at the forefront of this and other business and employment upheavals caused by the pandemic, and this expertise came out in the sessions, informed by the work PEOs have done for their clients during this time. The HR/Legal session “The New World of Work,” expanded on employee behaviors, service impacts, and pressures on small businesses, all initiated by the pandemic but continuing as new realities. While much focus is placed on increasing wages, a trend revealed in the “Looking Forward: An Economic, HRIS, and Technology Trends Update” is that there are categories of jobs with wage acceleration, which has not been seen before. These and other issues continue to

challenge PEOs to develop new ways to help their clients.

Third, the momentum of NAPEO member generosity continued with this year’s NAPEO Gives Back charity partner, Soldiers’ Angels. Donations poured in throughout the conference, and continue to come in even now. As of press time, NAPEO Gives Back raised more than \$120,000 for Soldiers’ Angels. (See the full list of donors on page 39.)

Fourth, the Women in NAPEO (WIN) reception and the NextGen Mixer, as well as the presence of PEO Ambassadors, marked NAPEO’s continued forward-looking goals of:

- Empowering, engaging, and encouraging women in the PEO industry;
- Identifying and nurturing the next generation of industry leaders; and
- Attracting and welcoming new service partners—and service areas—into NAPEO.

Fifth, the PEO educational sessions were laser-focused on the issues most important right now, as well as following developing and evolving areas. This was apparent in the array of educational tracks, which covered all of the operational and management areas of the PEO, as well as in the depth and breadth of speakers across all of these areas. Each track pinpointed the most relevant and timely issues facing PEOs and how things are changing in M&A, cybersecurity, profitability, sales, work and workforce issues, PEO competition, and the power of data, to name a few.

Sixth, speaking of responding to the world around us, NAPEO unveiled several exciting new marketing resources, including a moving new video featuring PEO clients, a full suite of October PEO Marketing Push



In the Sales/Marketing PEO Educational Session about social media strategies.



Tim Graham of Payrolling Partners, Hank Johnson of Nextep, 2021-2022 NAPEO Chair Bruce Cornutt of Lyons HR, Britt Landrum of LandrumHR, Roger Hays of Premier Employer Services, and Brian Fayak of Nextep.



Christina Nelson and Wanda Silva in the Marketplace.



Tuesday's general session: "Looking Forward."

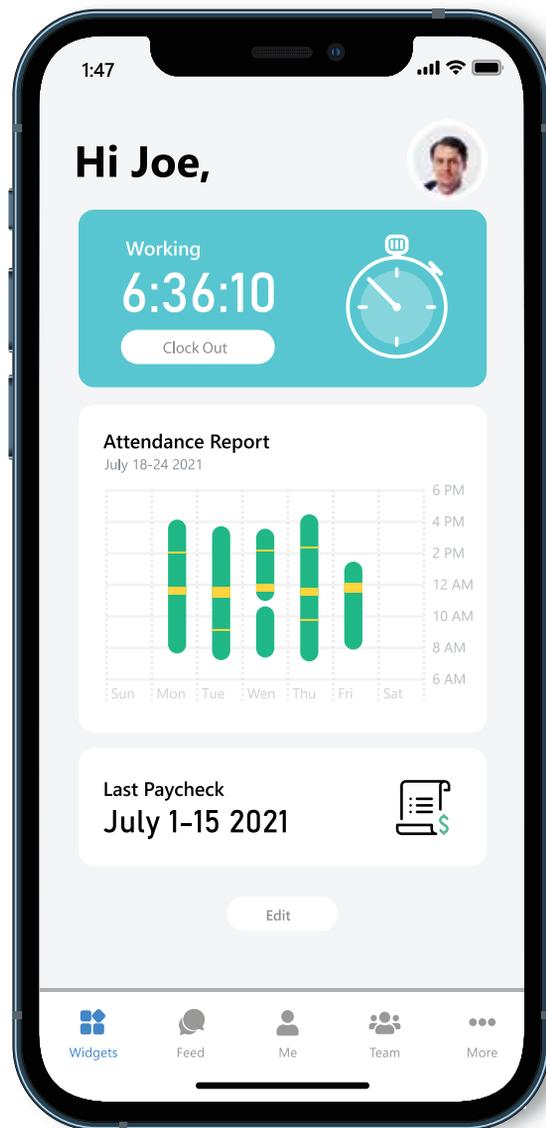
materials for members, and a brand new white paper, "PEO Clients in the COVID-19 Pandemic: Follow-Up Analysis." The client testimonial video showed real PEO clients talking about how their PEOs helped them through the pandemic. Many emphasized that they most likely would not be in business today without the help of their PEOs. Those in the marketing session on the last day of the conference when the video was played for the first time were riveted by the clients' stories. The October Push capitalizes on the campaigns of 2021, providing a variety of assets for members to use to promote the industry and their own

PEOs. The white paper analyzes and quantifies the positive effect PEOs had on their small business clients during the pandemic.

Finally, those who came in a day early to attend NAPEO committee meetings continued the work that keeps NAPEO informed about and involved in federal and state government affairs issues and legal challenges that affect the operating environment for PEOs. The Accounting Practices and Marketing & Communications committees met as well, powering the research and initiatives that keep PEOs operationally sound and visible to the small business market. Committee members continued

this work behind the scenes throughout the pandemic and have kept NAPEO at the forefront of issues, connected with lawmakers and regulators, and engaged in the business community. These committees also keep NAPEO members informed, and that includes identifying issues and finding solutions that make their way into sessions for NAPEO conferences, articles in *PEO Insider*,[®] and subject matter for NAPEO webinars and other online educational offerings.

Whether you were able to attend the conference or not, we hope you enjoy this story in pictures that shows the highlights and the people who were there and made the experience memorable. ■





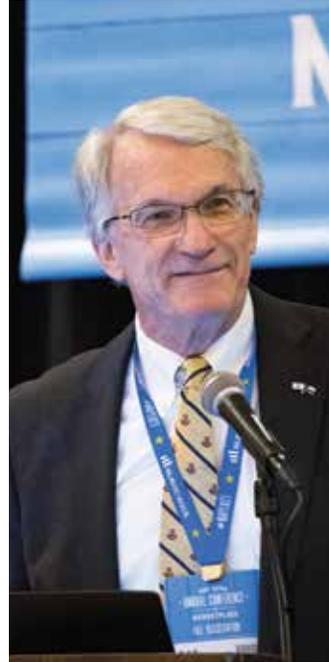
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Above left: Heading into the conference opening.

Above center: NAPEO President and CEO Pat Cleary officially opens the conference.

Above right: Keynote speaker Cheryl Cran, founder of NextMapping,™ spoke on “The Post-Pandemic Reality—What’s Next?”

Left: Before the keynote session began, Bob Cerone of Cognos HR, chair of NAPEO’s Midwest Leadership Council, presented the industry’s highest honor, the Michaeline A. Doyle Award, to Brent Tilson of Tilson HR.



Lee Yarborough cuts the ribbon, officially opening NAPEO’s 2021 Marketplace.



NAPEO’s Nick Kapiotis shows off his juggling skills.



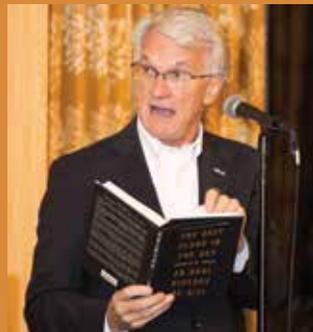
Members in the Marketplace.



“CEO Session: Inquiring Minds Want to Know—How to Prepare for Being Sold,” with speakers Brian Nugent, Esq. of Akerman, LLP, Mark C. Perlberg of Nautic Partners, and Wanda J. Silva of Silva Capital Solutions, Inc.



PEO Ambassador Bill Maness visits with a new exhibitor in the Marketplace.



Above: Pat Cleary reads excerpts from Garrett Graff's book during the speaker introduction at the CEO Forum dinner.

Above right: CEO Forum dinner speaker Garrett Graff, author of "The Only Plane in the Sky: An Oral History of 9/11."



Jenna Marceau of Syndeo Outsourcing, chair of the NextGen Steering Committee, and NAPEO's Michael Kreiter at the NextGen Mixer. "We had more people than we expected because news started to spread and people wanted to join in, checking out the new group and seeing what it was all about," said Jenna. "The atmosphere was energetic. Everyone was very laid back, but excited to be together."



PEO Ambassadors Dave Carothers of Praxiom Risk Management, Geoff Vandal of MetLife, and John Harmon of Aon with Brent Tilson at the Service Partner Reception.



Wendy Katz of Questco, Tara Conger of Tandem HR, Lee Yarborough of Propel HR, Wanda Silva of Silva Capital Solutions, Monica Denler of InTANDEM Human Resources, Kristen Appleman of ADP TotalSource, Anne Donovan of Xenium, and NAPEO's Melissa Viscovich at the Women in NAPEO (WIN) Reception.



Attendees at the WIN Reception raise their glasses in a toast.



New NAPEO Chair Bruce Cornutt.



NAPEO 2020-2021 Chair Lee Yarborough passes the gavel to NAPEO 2021-2021 Chair Bruce Cornutt, president and CEO of Lyons HR, at the Annual Member Meeting.



"Sales/Marketing Session: Finding Your Blue Ocean," with speakers Matt Lowman of Integrity HR Management, Inc. and Heather Keefer Saulsbury and Abram Finkelstein of StaffLink Outsourcing, Inc.



Scott Klososky of FPOV and John Slavic of Slavic401k spoke on "Looking Forward: An Economic, HRIS, and Technology Trends Update."



Fireside Chat with Pat Cleary and Burton Goldfield of TriNet Group, Inc.



The Syndeo folks recreate their September *PEO Insider* cover.



"Ops/Tech Session: Understanding the Power of Data—An Overview and Case Studies in Artificial Intelligence and Machine Learning for PEOs," with speakers Andy Lubash of Prestige PEO, Brett Heineman of Gradient A.I., Paul Hughes of Libertate Insurance, Chase Pettus of Gradient A.I., Tom McKeown of isolated Network, and Jennifer Robinson of Risk Transfer Insurance Agency.



"Accounting/Finance Session: Planning for Next Year—Measuring True Client Profitability," with speakers Tanya Yakhnis of Tandem HR and Wendy Katz of Questco.



Garry Bradford of UniqueHR and chair of the Texas Leadership Council led the way from the Lone Star Roundup to the NAPEO Celebration.



The NAPEO Celebration at the JW Pavilion.



At the Breakfast and Networking Roundtables, attendees discussed challenges, ideas, and solutions in the various areas of PEO operation, from granular aspects of specific compliance issues to global trends in the employment world.



"HR/Legal Session: California and Other Pain-in-the-Neck States—Big State Compliance Issues for PEOs and How to Handle Them," with speakers Mark Jacobs, Esq. of Fisher Phillips, Christina Nelson of Pacific HR, and Sheldon J. Blumling, Esq. and John M. Polson, Esq., also of Fisher Phillips.



The Closing Session and Lunch, "The Big Reveal with LGND," began with a T-shirt toss.



Then came an in-depth analysis of the data that led to the creation of NAPEO's 2021 marketing campaigns, and "The Big Reveal" of NAPEO's new client testimonial video and how all the pieces of this year's campaigns work for member marketing efforts.



The session ended with a confetti cannon showering attendees with brilliant gold slivers of confetti and cards containing the QR code allowing access to all of the assets.

2021 NAPEO GIVES BACK DONORS

Bold indicates donors who have given in 2019, 2020, and 2021.

Italics indicates donors who have given this year and in either 2019 or 2020.

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Soldiers' Angels CEO Amy Palmer, left, receives the NAPEO Gives Back check at the NAPEO Celebration, from NAPEO Gives Back Co-Chair Clay Kelley and NAPEO's Melissa Viscovich and Pat Cleary.

\$249 AND UNDER

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MANDATORY VACCINATIONS

NOW WE KNOW MORE

BY GORDON M. BERGER, ESQ.

Many employers are on the fence about whether to reopen offices, and if so, whether to mandate vaccinations. We now know that employers can mandate that employees be vaccinated to return to offices.

A TEXAS CASE

In April 2021, a Texas hospital system informed its 26,000 employees they would need to receive the COVID vaccine as a condition of continued employment. The hospital recognized the Equal Employment Opportunity Commission's (EEOC's) stated exemptions—based on a medical condition or a sincerely held religious belief. In response to the policy, a number of nurses and other healthcare employees filed suit against their employer, Houston Methodist Hospital and Houston Methodist The Woodlands Hospital, under Texas common law,

claiming that it is unlawful to require the vaccine.

The plaintiffs' primary argument was that the U.S. Food and Drug Administration (FDA) has only allowed the administration of COVID vaccines under an "emergency use authorization" (EUA) classification. The plaintiffs also asked the court to issue a temporary restraining order (TRO) blocking enforcement of the hospital's policy and preventing employees from being terminated if they refused to receive the vaccination by the policy's deadline.

On June 12, 2021, the judge dismissed the lawsuit because, "Texas law only protects employees from being terminated for refusing to commit an act carrying criminal penalties to the worker ... and receiving a COVID-19 vaccination is not an illegal act, and it carries no criminal penalties." While the judge held that, "Texas does not recognize [a public policy] exception to



Like the Texas case, the DOJ said that vaccine mandates are not coercive because employees retain their right to refuse a vaccine or not.

at-will employment," he further concluded that, even "if it did, [the employer's] injection requirement is consistent with public policy." The judge cited the EEOC guidance that permits employers to mandate vaccinations in the workplace, subject to valid medical or religious objections (more on the EEOC below).

The judge additionally noted that, "This statute governing the FDA (and the drugs and vaccines approved by it) states that those receiving an emergency vaccine must be informed "of the option to accept or refuse administration of the product, of the consequences, if any, of refusing administration of the product, and of the alternatives to the product that are available and of their benefits and risks." He also noted that the employer mandate here "is not coercion. Methodist is trying to do their business of saving lives without giving them the COVID-19 virus. It is a choice made to keep staff, patients, and their families safer. [Plaintiffs] can freely choose to accept or refuse a COVID-19 vaccine; however, if [they] refuse, [they] will simply need to work somewhere else."

While this case was the first to interpret whether mandatory vaccination in the workplace is lawful, the reader should be aware that because the ruling interprets Texas law, it may be limited to employers in Texas.

OSHA

The Occupational Safety and Health Administration (OSHA) weighed in on mandatory vaccines in the workplace. On April 20, 2021, OSHA issued guidance about an employer's obligation to record adverse reactions to the COVID vaccine. The guidance, which is

in Q&A form, clarifies that if an employer adopts a mandatory vaccination policy, an adverse reaction to the COVID vaccine is recordable on an employer's OSHA 300 log if the reaction is: work-related; a new case; and meets one or more of the general recording criteria set forth in 29 C.F.R. 1904.7.

According to the guidance, if an employer *requires* employees to be vaccinated as a condition of employment (i.e., for work-related reasons), then any adverse reaction to the COVID vaccine is work-related. Therefore, the adverse reaction is recordable in the

OSHA 300 log if it: led to the employee missing more than one day of work; required medical treatment beyond first aid; or resulted in restricted work or transfer to another job.

Employers that *recommend* the vaccine, but do not require it, do not need to record adverse reactions.

THE EEOC

In May 18, 2021, the EEOC issued a press release confirming that "Federal EEO laws do not prevent an employer from requiring all employees physically entering the workplace to be vaccinated

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for COVID-19, so long as employers comply with the reasonable accommodation provisions of the ADA [Americans with Disabilities Act] and Title VII of the Civil Rights Act of 1964 and other EEO considerations.”

THE DOJ

Then the Department of Justice (DOJ) chimed in. The DOJ’s July 6, 2021, Memorandum Opinion says that mandatory workplace vaccine policies are permissible under the Food, Drug and Cosmetic Act (FDCA). It refers to Section 564 of the FDCA, which permits employers to impose the COVID vaccination as a

condition of employment even when the vaccine is subject to EUA.

Like the Texas case, the DOJ said that vaccine mandates are not coercive because employees retain their right to refuse a vaccine or not. The opinion essentially validates that employees may be disciplined, including termination, for refusing to abide by an employer vaccination policy. In short, employees can accept or refuse a COVID vaccine but will need to find another job if they refuse vaccination.

It is important to note that the DOJ’s opinion is limited, as it only addresses the permissibility of the COVID vaccine under the FDCA.



While an employer in Texas may terminate an employee for refusing to be vaccinated, in Montana, an individual’s vaccination status is now a protected category.

ON THE OTHER END OF THE SPECTRUM

While an employer in Texas may terminate an employee for refusing to be vaccinated, in Montana, an individual’s vaccination status is now a protected category. The Montana law also prohibits employers from requiring employees to provide their immunization status and bars employers from requiring employees to receive a vaccine subject to EUA. As of publication, no other states have followed Montana in establishing employee protections over vaccination status, but several states, such as Florida, restrict customer proof of vaccination status, while other states restrict “vaccine passports” in the context of government use or employment. ■

▼
This article is designed to give general and timely information about the subjects covered. It is not intended as legal advice or assistance with individual problems. Readers should consult competent counsel of their own choosing about how the matters relate to their own affairs.



GORDON M. BERGER, ESQ.

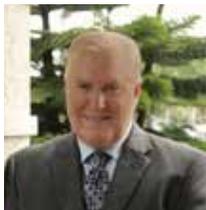
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THE EVOLVING EMPLOYEE HANDBOOK

TIPS FOR UPDATES IN A POST-VACCINE WORLD

BY BRIAN L. MCDERMOTT, ESQ. AND MEGAN A. VAN PELT, ESQ.

As COVID vaccines become more widely available and individuals reach full vaccination status, guidance and regulations continue to change from a broad patchwork of authorities, including federal, state, and local governments, the U.S. Centers for Disease Control and Prevention (CDC), and the Occupational Safety and Health Administration (OSHA). With these changes, more employees are gradually returning to work in person. Therefore, now is an ideal time for employers to review their employee handbooks and update policies to evolve with workplace changes prompted by COVID and the post-vaccine world.

Pandemic aside, at a minimum, employers should review and update their employee handbooks annually to ensure compliance with updates in the law. This is especially applicable for PEOs that operate in multiple states. Labor and employment laws that directly impact the workplace are updated often, especially at the state and local levels. An evolving employee handbook, with up-to-date policies, helps inform employees about the organization's expectations and culture, and may help shield employers from potential liability. Now, more than ever, employers should diligently stay abreast of regulations and update their employee handbooks and policies as necessary.

This article highlights five important policy topics employers may want to carefully review and possibly update in this post-vaccine world.

REMOTE WORK POLICIES

Perhaps the most dramatic impact of COVID in the workplace has been the increase of remote work. At the onset of the pandemic, the unexpected closure of offices forced many employers to quickly adapt to remote operations. These work-from-home arrangements have endured for much longer than anticipated. As more people are reaching full-vaccination status, it appears we might be returning to a type of normal. An increasing number of employees



Pandemic aside, at a minimum, employers should review and update their employee handbooks annually to ensure compliance with updates in the law.

prefer flexible working arrangements and would like them to continue beyond the pandemic.

Employers should review and update their remote work and teleworking policies to reflect their company's work arrangement model. Remote work policies should grant employers flexibility to individually assess job positions to determine if a remote work arrangement

is suitable based upon essential job duties and equipment required to complete the job. Further, remote work policies should consider expectations for performance, working time, virtual meetings, and communication. Flexible work arrangements may necessitate updating policies and procedures related to timekeeping for nonexempt workers to ensure accurate reporting of hours worked and proper overtime procedures. An understanding of applicable state laws is critical to formulating your flexible work arrangements.

LEAVE MANDATES

The Families First Coronavirus Response Act (FFCRA), the federal law requiring qualified employers to provide paid sick leave and extended Family and Medical Leave (FML) for certain COVID-related reasons, expired on December 31, 2020. While the federal leave mandate did not extend into 2021, many states and local governments have enacted extended leave laws related to COVID or vaccinations. For example, California enacted supplemental paid sick leave related to COVID. Therefore, employers should carefully review applicable state and local leave mandates to evaluate potential policy updates. Depending on location, these extended leave mandates may apply on a temporary or permanent basis. Therefore, employers should consider whether to update the employee handbook or have a separate policy addendum.

WORKPLACE HEALTH & SAFETY POLICIES

Under OSHA, employers are responsible for providing a safe and healthy workplace free from recognized harm likely to cause death or serious harm. Recognizing the role of employers in responding to the

THE POST-COVID WORKPLACE

The flip side of making sure your client worksites are COVID-compliant is making sure employees feel at home in the post-COVID workplace. According to a recent guest post by Anshul Srivastava on the Times of Startups website, employers can do six things:

- Reach out to staff to discover problems they may be having;
- Create a culture that doesn't allow bias in leadership that makes employees feel judged or unheard;



- Have engaging conversations between supervisors and employees to help them get on the same page;
- Conduct regular, anonymous surveys;
- Offer well-being activities; and
- Make the office feel like home with more comforting and fun desk and work spaces.

COVID pandemic, OSHA has provided guidance to employers about how to mitigate the spread of COVID and to protect unvaccinated or at-risk employees.

In addition, through its executive order on Protecting Worker Health and Safety, the Biden administration has placed a national emphasis on the health and safety of

workers from the COVID pandemic. To this end, employers should address workplace health and safety policies in their employee handbooks and outline safety protocols and other deliberate measures to protect workers. The handbook should express that the employer will follow the most current state and local laws, as well as public health organization guidance on maintaining workplace safety.

DRUG TESTING PROCEDURES & POLICIES

The pandemic has encouraged many employers to rethink their drug testing procedures to promote employee safety. Many employers have implemented drug testing kits in a controlled environment or hosted drug screenings at healthcare clinics and labs well-equipped to manage risks associated with COVID. Thus, employers should ensure their drug screening



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procedures reflect any restructured arrangements. Consistent with applicable law, handbooks also should provide that drug and alcohol policies remain in effect during any work-from-home period. Employers may also want to consider developing state marijuana legalization laws to ensure compliance with the requirements of each state in which they operate.

ANTI-DISCRIMINATION POLICIES

Employers should clearly publish an Equal Opportunity Employment (EEO) policy in their employee handbooks and emphasize their commitment to providing equal employment opportunity to applicants and employees without discrimination due to protected characteristics. In addition, employers should include a reasonable accommodation policy for qualified individuals in accordance with the

Americans with Disabilities Act (ADA) and at least generally describe the organization's process for ADA accommodations. It is helpful for employers to consult the U.S. Equal Opportunity Employment Commission's (EEOC's) COVID guidance for handling accommodation requests related to the virus.

Now is an optimal time for employers to review and update their employee handbooks. With the constantly changing legal landscape, the employee handbook must be an evolving document that is updated periodically to reflect current and accurate workplace practices in accordance with the law. Moreover, employers must be able to demonstrate that employees received or have access to the employee handbook and updates by maintaining signed employee acknowledgments. Finally, as always, handbooks should be blessed by legal

counsel to ensure they meet applicable legal requirements. ■



This article is designed to give general and timely information about the subjects covered. It is not intended as legal advice or assistance with individual problems. Readers should consult competent counsel of their own choosing about how the matters relate to their own affairs.



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COMMON CONCERNS FOR BUSINESSES RETURNING TO WORK

BY BRIAN S. ANDERS

2 020 has changed the workplace environment entirely—and the transition isn't over. The pandemic has created hurdles that proved the need for ongoing agility at the workplace and in company leadership. These new challenges include returning to work, gauging vaccination concerns, developing hiring plans, and navigating the unique hybrid workplace dynamic. While it won't be an easy feat, HR leaders must consider responding to the ebb and flow with care while managing employee concerns. Below are a few key takeaways based on our work with several employers that successfully navigated through the unprecedented challenges of the last two years.

RETURN TO THE OFFICE

HR leaders are assessing the daily influx of COVID cases to prepare for a successful

transition back into the office or a consistent hybrid workplace. As plans for a return to the workplace move forward, companies and organizations will inevitably face the potential for virus exposure. Because of these uncertainties, business leaders are looking for guidance about how to approach the circumstances. The Centers for Disease Control and Prevention (CDC) guidelines frequently change, making it hard to keep up-to-date on exposure rates, mask requirements versus recommendations, vaccine updates, and capacity restrictions. The Families First Coronavirus Response Act (FFCRA), remains a viable voluntary option for businesses. Many WorkSmart clients are pleased to have FFCRA as a potential option.

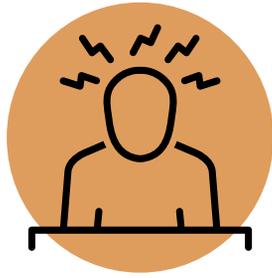
In addition to concerns about preparedness, we've seen an uptick in inquiries regarding vaccinations and safety plans.

While there are fewer worries about the return to work now that vaccines are available, several organizations are determining whether to require all staff to be vaccinated, show proof of vaccination, and wear masks in the office. As regulations change, one of the best actions a leader can take is to actively acknowledge the challenges in the transition from remote work to the office. While plans to return to the workplace pose uncertainty for the upcoming months, HR and business leaders must remember that flexibility and agility are vital.

MAINTAINING A FULL STAFF

More concerns than ever before have recently occurred around staffing: maintaining a healthy hiring pipeline and what some have termed The Great Resignation. Many organizations have fewer applicants coming through on their recruiting sites. There are a few reasons for this, but it's no cause for immediate panic. The application process should be managed specifically to make your organization stand out from the rest. Right now, we are assisting companies by reviewing job descriptions and offering our applicant tracking system (ATS). Businesses need to supplement their hiring processes by expediting their interview and selection processes. Applicants are getting job offers within days from some companies, leaving those that require a weeks-long process unable to attain the high-quality candidates they seek.

In some cases, candidates are strictly looking for remote or work-from-home positions, as they've become accustomed to not being in a physical office. Organizations occasionally find that candidates are not ideal for the specific position post-hire, or they are simply not finding candidates with the qualifications they seek. Companies must adjust to the ever-changing work environment by re-examining current work arrangements, allowing hybrid work-from-home schedules if remote burnout occurs, and



EMPLOYEE ANXIETY

When businesses return to work, employees must also face stress about returning to work. A recent article by Jessica A. Gold, M.D., M.S. on the Self website lists these among employee concerns:

- Being exposed to COVID;
- Losing the flexibility of working at home; and
- Losing the work-life balance developed while working at home..

exploring alternatives that allow businesses to keep their top talent in what continues to be a limited labor market. Retaining staff members during this time has become more critical than ever. This means leaders are required to level up their engagement strategy and ask their employees what their needs are and what's not working with the office transition plan. Failing to adjust your engagement strategy might allow underlying issues to go unnoticed, thus leading to a decline in employee retention. Frequent communication is crucial to curb The Great Resignation and pique substantial interest from potential top talent.

VACCINE MANDATES

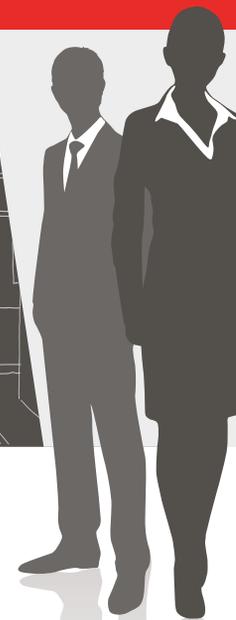
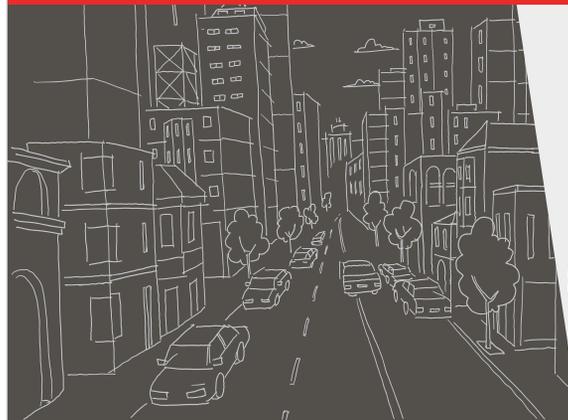
The volume of client inquiries about mandating vaccines has increased as the Delta variant continues to spread. As regulations change, the push for vaccine mandates has left businesses at an ethical crossroads. Many clients ask if they can require vaccines for employees,

leading to potential Americans with Disabilities Act (ADA) issues. Clients are curious about whether or not they can mandate vaccines, but the overwhelming majority are holding off on vaccine mandates for the time being. Apart from the healthcare industry and organizations that can facilitate and pay for

weekly COVID tests, very few of our clients have mandated vaccinations to date. Businesses and organizations are determining whether proof of immunization is necessary before returning to work in the office.

As a general practice, companies should work from a place of consistency

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HR leaders are assessing the daily influx of COVID cases to prepare for a successful transition back into the office or a consistent hybrid workplace. Companies and organizations will inevitably face the potential for virus exposure.

and stay current on CDC vaccine recommendations and requirements. In response to the recent increase in questions about vaccine mandates, we

developed up-to-date resources for our clients, understanding that this is a rapidly evolving situation. We all learned how to navigate uncertainties during the first wave of COVID and our clients reflect this in how they manage employee exposure and quarantine procedures. At the end of the day, organizations want to keep their people safe and healthy. It's all about striking the right balance and determining what the appropriate course of action is.

LOOKING AHEAD

The work-life balance has become trickier for individuals and families to navigate over the last 18 months. As new cases begin to ramp up again, many questions about kids returning to school have emerged. Will students stay at school or end up back in an e-learning situation? In the latter case, it may force parents to work

from home once again if they're not already working remotely. It's something to consider when outlining your office transition plan. There are many unknowns with the Delta variant and the transmissibility of COVID from vaccinated employees, creating breakthrough cases. It's not easy to predict what may happen from here on out, but developing a comprehensive plan with options for various scenarios will allow the flexibility needed to deal with the unexpected. Preparing for the unknown and making a conscious effort to support your team with transparency and empathy will go a long way when another sudden change occurs. ■



BRIAN S. ANDERS

Director of HR
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HIGHLIGHTS OF NAPEO'S 2021 FINANCIAL RATIO & OPERATING STATISTICS SURVEY

The revenue growth rate for all respondents in NAPEO's 2021 Financial Ratio & Operating Statistics Survey (FROS) was 1.9 percent for FY2020, down from 8.3 percent in FY2019. The operating income per worksite employee was \$199 for FY2020, also down slightly from \$242 in FY2019. Despite these results, client retention remained strong and gross profit per worksite employee and productivity improved.

This is the 28th year NAPEO has conducted the FROS, partnering with Industry Insights. All information is kept in strict confidence with Industry Insights' employees. No one at NAPEO has access to the individual PEO data. This year, 78 PEOs participated, which is about 30 percent of all NAPEO members. This level of participation is a statistically valid representation of the NAPEO membership. A same-sample group of 50

PEOs has consistently participated in the FROS over the past 10 years.

Below are some highlights of the 2021 survey results, which reflect FY2020 data.

THE TYPICAL PEO

The survey provides a snapshot of a typical PEO that participated in the survey. Industry Insights noted that the 4,600-worksite employee (WSE) count is considerably larger than it was a few years ago.

The typical PEO:

- Has 4,600 total WSEs;
- Has been operating for more than 10 years;
- Has an average client size of 21 WSEs;
- Has 39 internal employees;
- Showed annual revenue growth of 1.9 percent in 2020; and
- Paid its worksite employees \$47,000 per year in gross pay.

Table 1 reflects and compares the same statistics above by size of PEO.

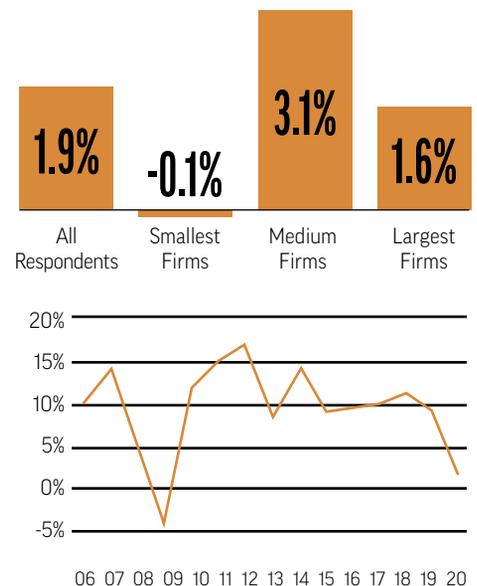
TABLE 1. THE TYPICAL PEO BY SIZE.

	SMALLER (< 2,500 WSEs)	MEDIUM (2,500 to 10,000 WSEs)	LARGE (> 10,000 WSEs)
# WSEs	1,200	3,600	16,300
Years in Operation	10+ years	10+ years	10+ years
WSEs per Client	15	20	23
# Internal Employees	13	32	96
Revenue Growth %	-0.1%	3.1%	1.6%
WSE Gross Pay	\$53,000	\$41,000	\$50,000

GROWTH

2020 was an unexpected year for PEOs, though the average revenue growth was still positive at 1.9 percent. For smaller firms, the average revenue growth declined, at -0.1 percent. For medium firms, it increased at a rate of 3.1 percent, and for larger firms at a rate of 1.6 percent.

FIGURE 1. REVENUE GROWTH RATE BY FIRM SIZE AND 15-YEAR TREND.



CLIENT RETENTION

Client retention, always a strong part of the industry, continued to be good with all size PEOs showing close to, if not exceeding, 90 percent retention, with an overall rate of 90.4 percent.

FIGURE 2. CLIENT RETENTION RATE BY FIRMS SIZE AND 15-YEAR TREND.



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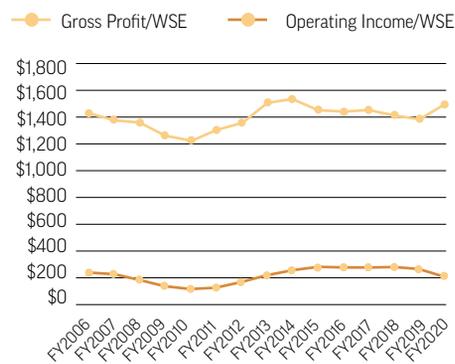


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PROFITS

Regardless of the economic hardships that came with 2020, the Gross Profit per Worksite Employee metric increased to \$1,496/WSE. The typical Operating Income per Worksite Employee was \$199.22/WSE.

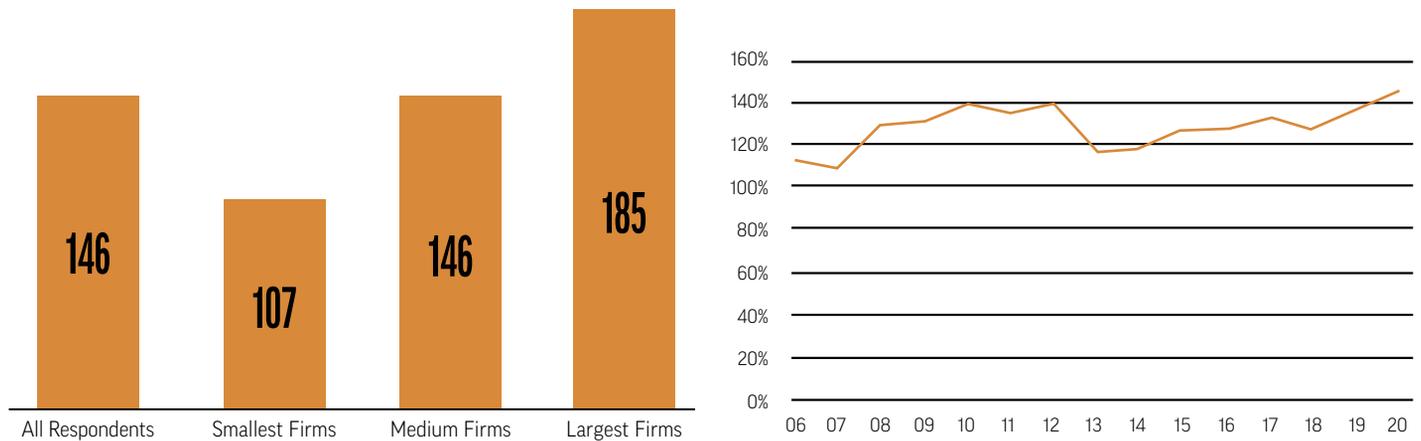
FIGURE 3. MARGINS PER WORKSITE EMPLOYEE BY FIRM SIZE AND 15-YEAR TREND.



PRODUCTIVITY

The number of Worksite Employees per Internal Employee is the industry's key indicator of employee productivity. This indicator increased slightly in 2020 from 138 to 146 WSEs per Internal Employee (excluding sales employees.)

FIGURE 4. WSES PER INTERNAL EMPLOYEE (EXCLUDING SALES EMPLOYEES) BY FIRM SIZE AND 15-YEAR TREND.



A PERSPECTIVE ON INTERNAL EMPLOYEES

Table 2 provides similar perspectives on the ratio between internal employees and the number of worksite employees. The

left column shows the number of internal employees (by function) servicing every 1,000 WSEs. The right column displays the number of WSEs serviced per internal

employee (by function). Based on the table for this year, a PEO with 5,000 WSEs would have four people in accounting, finance, legal, and taxes.

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TABLE 2. WSES PER INTERNAL EMPLOYEE, PER DEPARTMENT.

For every 1,000 WSEs...	PEO Department	WSEs per...
0.8	Accounting, Finance, Legal, Compliance, and Tax	1,250
1.8	Payroll (including Payroll Support)	570
0.6	Benefits	1,700
0.9	Human Resources	1,000
0.6	Information Technology	1,700
1.2	Internal Sales & Marketing/Customer Relations & Sales	830
0.3	Risk Management	3,000
1.4	CEO/Staff Not Assigned Above, Other General Office Support	700
7.5	Total Internal Employees	113

This is very small sample of the data available in NAPEO’s 2021 Financial Ratio & Operating Statistics Survey. If your PEO isn’t already participating in the survey and benefitting from the value it provides in benchmarking and budgeting, please make 2022 the year you begin. Next year’s survey will launch in April 2022, with results to follow in September 2022.

For more information about the survey, please contact Melissa Viscovich at mviscovich@napeo.org or 703/739-8161.

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CONDUCTING EFFECTIVE VIRTUAL MEETINGS

BY CLAY M. KELLEY, SHRM-SCP, PHR

Just when we thought things were back to normal, we are reminded that change is constant. The PEO sales world is constantly changing and we have to continually look for ways to innovate and that includes conducting virtual meetings.

I was conducting virtual meetings way before COVID. The virtual world gives you the opportunity to conduct business anywhere you have the service capability.

The balance of this discussion focuses on how you can conduct virtual meetings more effectively.

SEVEN THINGS TO PREPARE FOR EFFECTIVE VIRTUAL MEETINGS

- Convert all materials to a medium that you can present and share: marketing materials, presentations (to be covered in a minute), proposal documents, and client service agreement (CSA).
- Increase your bandwidth. Nothing says “no” like getting frozen in the middle of a discussion.

- Minimize distractions when you can.
- Keep your virtual background real and professional; avoid the use of funky backgrounds.
- Dress professionally. Stand during virtual meetings so you have to wear pants.
- Practice, practice, practice. Record your presentations, watch the “game film.” Take time to evaluate your game film. Would you want to be in business with you?
- Never leave any meeting with a prospective client without setting the next meeting and always confirm meetings the day prior. Both of these strategies keep virtual sales and decision-making momentum going and ensure prospects are qualified.

THE TWO MOST IMPORTANT VIRTUAL MEETINGS

Your two most important virtual meetings are the first meeting and the discovery meetings.



When you do a great job of qualifying the opportunity and discovering the prospect’s needs, the proposal meeting is simply making the case to do business together.

Your first virtual meeting is an informational and qualifying meeting. The goal of this meeting is to provide an overview of your company and qualify the prospect to go to discovery. Here are eight strategies for successful first virtual meetings:

- State the agenda and the length of the meeting. Important note: You better keep your presentation under 22 minutes.
- Let prospects know three things:
 - You hate presentations as much as they do, but this slide deck gives a great overview for the discussion.
 - This meeting is going to be primarily about your company.
 - If prospects wish to continue the conversation after this discussion, everything going forward will be about them.
- Have a prepared presentation with 20 to 25 slides that covers the following topics:
 - Your company history and accomplishments.



Be a rapport-building, qualifying, discovery-question-asking, always-setting-the-next-meeting professional anti-salesperson.

- o Who your company serves.
- o Why your clients do business with you.
- o Shared or co-employment.
- o A very high level overview of your service offering.
- o Call to action.
- Throughout the presentation, continue to say, “This is what we do for our clients.”
- Refrain from selling or saying, “We will handle this for you or will do this for you.” Remember, you are imparting information—not selling!
- Every few minutes, ask if they have any questions.
- At the end of the presentation, simply ask prospects, “Would you like to

continue the conversation and discuss how this might look for you?”

- Set the next meeting and the expectation that the meeting will be all about them, discovering their needs, wants, gaps, costs, etc.

Important Note: When you complete the informational/qualifying meeting and you qualify the prospect out (not a good fit), consider it a mini-win!

Your next most important virtual meeting is the discovery meetings. Meetings here is plural. Effective discovery will likely take more than one meeting.

Discovery meetings in the virtual world are not that different from face-to-face

IT'S OCTOBER, AND THAT CAN ONLY MEAN ONE THING: IT IS TIME FOR THE OCTOBER PEO MARKETING PUSH!

This is the time when the industry bands together in an all-hands-on-deck marketing effort to raise the profile of our industry and move the needle on industry awareness and visibility. There are lots of different ways for you to take part in the October Push:

Share our new video:
www.napeo.org/statisticsvideo

Share the results of NAPEO's new white paper: www.napeo.org/whitepaper

Use any or all of the “plug-and-play” resources in our October Push Marketing Toolkit: www.napeo.org/octoberpush

Purchase a customized, one-of-kind client testimonial video featuring one of your clients: www.napeo.org/store

meetings. Effective discovery is asking questions to build the outsourcing business case to cause the prospect to want to do business with you. The key to effective discovery is staying in questioning mode and not selling!

Once you have completed the discovery process and built the business case, you need to build the financial business case. Prospects have costs associated with employment and current vendors in the areas of HR, technology, workers' compensation, risk management benefits administration, and payroll administration. Gaining a prospect's budget in all of these areas is crucial for building the entire business case.

YOUR PROPOSAL PRESENTATION MEETINGS

Proposal meetings present the opportunity to solidify everything discovered in all previous meetings: the client's needs, wants, gaps, costs, and the solutions you will bring to them.

When you do a great job of qualifying the opportunity and discovering the prospect's needs—building the business and financial cases—the proposal meeting is simply making the case to do business together. The prospect needs your solutions, and your solutions meet their needs, so we're just coming to agreement about those two propositions and the terms.

The ending of any proposal meeting requires a call to action:

- Based on everything we have done so far, are we doing business together?
- What are the action steps and timing to do business together?
- Are we parting friends? If we are parting friends, is it for just a period of time or forever?

Last, be a rapport-building, qualifying, discovery-question-asking, always-setting-the-next-meeting professional

anti-salesperson. In the virtual world, those qualities make all the difference in the world. ■



CLAY M. KELLEY,
SHRM-SCP, PHR

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AVOID POTENTIAL LANDMINES WHEN MAKING CLAIMS IN PEO PROMOTIONAL CAMPAIGNS

BY KATHLEEN NOLAN, ESQ. AND JOSE G. SANTIAGO, ESQ.

Getting word-of-mouth referrals can set your clients (and company) up for success when you accurately describe your goods and services. According to NAPEO, the number of worksite employees employed in the PEO industry grew at an impressive compounded annual rate of 7.6 percent; however, the PEO industry’s clients still represent only 15.3 percent of all employers with 10 to 99 employees,¹ which means that there is an untapped market of more than 84 percent.

With all this opportunity comes responsibility. If PEO clients have a great experience, then they’ll likely tell their friends, thereby increasing the number of PEO clients. Back in 2017, Alignable completed a survey of 7,500 small-business owners in North America and found that for 85 percent of participants, word-of-mouth referrals was the best way to acquire local customers.² In our own industry, more than 30 percent of company decision-makers learned about PEO from friends or colleagues.³

Below are some tips to avoid the potential legal and compliance landmines in the process of creating PEO promotional campaigns.

BE TRUTHFUL

For purposes of advertising or marketing, the law requires that objective claims be truthful and substantiated.^{4,5,6} That is true whether it’s an explicit or implicit claim. An ad like “Buy the Wonderful Workers’ Compensation Widget and Save

5 Hours a Week plus \$100 a Month on Workers’ Compensation Claims” makes two objective claims: time and dollar savings. These both need to be substantiated. Similarly, making statements like “cheaper benefits” or “cheapest benefits” are also objective and would need to be substantiated. By comparison, subjective claims or “puffery” are permissible,



If an advertiser makes an objective claim, then implicit in the claim is that the advertiser had a reasonable basis for the claim and such claim is substantiated.

generally speaking, if they are not deceptive and do not include an objective component. So, an ad like “The Best Quality Widget” or “The Most Amazing Widget” absent any objective component is sufficiently subjective because “the best” and “amazing” are vague.

If an advertiser makes an objective claim, then implicit in the claim is that the advertiser had a reasonable basis for the

claim and such claim is substantiated.⁷ There are several ways to provide substantiation, including surveys and data analytics, but you’ll need to make sure to provide a “reasonable basis” for the claims.

BE REALISTIC

Don’t forget that you must be able to live up to what you claim. Some claims specific to the PEO industry that could get you in trouble include:

- A promise or guarantee to lower your admin fees by 25 percent after a clients’ first year;
- Guaranteed single-digit annual renewals;
- A promise or guarantee to never ever raise admin fees (when you, the PEO, know that you may have to);
- Claiming to have an office in a particular state or city when you don’t; and
- Touting non-existent technology or add-on services

Remember, when it comes to ads to drive traffic, better to under-promise and over-deliver than to over-promise and under-deliver.

BE TRUE TO YOUR PRODUCT & BRAND

Channel your ads to the authentic product and brand your company has created. You can even have fun with subjective claims like “Our clients’ favorite PEO” or “Favorite PEO of our clients’ pets” to embody joy and still tout your brand.

Educate your sales and service teams about your client service agreement (CSA) to ensure alignment with what your organization is obligating itself to do on behalf of the customer. Understand what you are and are not willing to do.

BE AWARE OF THE LEGAL & COMMERCIAL RISKS

From a legal perspective, the Federal Trade Commission Act provides that the

Federal Trade Commission (FTC), an independent agency of the federal government, is tasked to protect consumers from unfair and deceptive practices in the marketplace. In addition, states have their own statute(s) prohibiting either unfair competition or false comparative advertising, or both.

Don't forget: There are also common-law fraud and the restatement of unfair competition, also known as tortious interference, which can be used to ensure advertisers stick to the truth.

It is also important to keep in mind that PEOs do not sell insurance, and claims that directly or indirectly infer that PEOs sell insurance could lead to state insurance department inquiries.

Separate, and in addition to the legal risk, there's also the commercial risk. Untruthful descriptions of products and services can lead to both an unhappy onboarding experience for the client and unhappy colleagues who may be trying to fit a round peg into a square hole. Trying to fulfill promises that are outside the scope of what your PEO typically does can impact retention and cause management nightmares when trying to manage tasks and services that are unscalable and a challenge to manage.

When, or if, those unhappy clients get upset, one of the places they tend to go is onto social media. Just like happy clients can be a great referral source, unhappy clients can help deter prospective clients.

BE ATTENTIVE TO YOUR AUDIENCE

Given the large market opportunity, most consumers are likely not familiar with a PEO or the services it generally provides. This is an important wrinkle for PEOs because the FTC looks at advertisements from the view of the "reasonable consumer" or the typical person looking at the ad,⁸ not the typical PEO customer.

POSITIVE PEO CLIENT STATISTICS

NAPEO's new white paper, "PEO Clients in the COVID-19 Pandemic: Follow-Up Analysis," examines how PEO clients fared during the pandemic compared to other businesses. The research finds that PEO clients:

- Are 58 percent less likely to have permanently closed;
- Are 32 percent less likely to have seen a negative overall effect on business from the pandemic;
- Are 82 percent more likely to have business operations back to normal (or better);
- Have had employment grow by 1 percent since early 2020 (compared to a 6 percent decline for comparable small businesses); and
- Have a rate of employment growth over the last six months that is 81 percent higher.





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Make sure to spell out nuances for those less familiar. When in doubt, a disclaimer can help provide additional context for the less familiar.

TAKE-AWAYS

Here are four tips for avoiding legal and compliance landmines in PEO promotional campaigns:

- Have your subject matter experts review and confirm that the content is accurate;
- Have a non-PEO expert review the content to help ensure it aligns with the reasonable reviewer viewpoint;
- Determine whether adding a disclaimer could help provide additional context; and
- If (or when) you have unhappy clients, build in a feedback loop to take that input into account for future collateral. ■

- 1 NAPEO, industry statistics, www.napeo.org/what-is-a-peo/about-the-peo-industry/industry-statistics (accessed August 12, 2021).
- 2 "The Majority of Small-Business Owners Rely on Word-of-Mouth Referrals. Here Are 3 Ways to Get Them," Dan Slagen, CEO of Alignable, October 16, 2017. www.entrepreneur.com/article/302229 (accessed 8/12/2021).
- 3 www.napeo.org/docs/default-source/member-resources/2019-business-owner-survey-report.pdf?sfvrsn=f29a29d4_4.
- 4 "Myths and Half-Truths About Deceptive Advertising," The National Infomercial Marketing Association, Las Vegas, Nevada, October 15, 1996, by Roscoe B. Starek, III, Former FTC Commissioner.
- 5 See *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council*, 425 U.S. 748, 771 (1976) ("Untruthful speech, commercial or otherwise, has never been protected for its own sake.")
- 6 Federal Trade Commission (FTC) Act, Section 5(a), provides that "unfair or deceptive acts or practices in or affecting commerce . . . are . . . declared unlawful." 15 U.S.C. Sec. 45(a)(1).
- 7 "Myths and Half-Truths About Deceptive Advertising," The National Infomercial Marketing Association, Las Vegas, Nevada, October 15, 1996, by Roscoe B. Starek, III, Former FTC Commissioner.
- 8 Advertising FAQs: A Guide for Small Business | Federal Trade Commission (ftc.gov).



This article is designed to give general and timely information about the subjects covered. It is not intended as legal advice or assistance with individual problems. Readers should consult competent counsel of their own choosing about how the matters relate to their own affairs.



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The Federal Regulatory Database is the starting point for research into federal laws and regulations affecting PEOs.

For each state, the State Regulatory Database includes:

- Qualifying to do business
- PEO registration/licensing
- Unemployment insurance
- Workers' comp

- Health and other benefits
- Sales and other corporate taxes
- Starting or terminating the PEO-client relationship
- Records and record retention requirements

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(1)	Outside County Nonrequested Copies Stated on PS Form 3541 (include sample copies, requests over 3 years old, requests induced by a premium, bulk sales and requests including association requests, names obtained from business directories, lists, and other sources)	91	31
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TOGETHER AGAIN AT NAPEO21

BY PAT CLEARY

August was an interesting month around NAPEO Global HQ. We heard from so many of you, asking if we were still planning on having an in-person conference in San Antonio in September. Since last year, we've been consistent, saying we would meet in person when we could do so safely. As the pandemic faded, then seemed to roar back, we—like you—were on tenterhooks. August 31 was a seminal day. That was the day we had a call with our Board of Directors to seek its advice. At that point, we had 550 people registered for the conference.

We didn't go into that call blind. We live here in Washington D.C., association gulch, and so we had reached out to scores of other associations, who like us are in the meetings business, and learned what they were doing. The Society for Human Resource Management (SHRM), an association that most of you belong to, was forging ahead, as was the American Staffing Association, another group with overlapping members. Both would have protocols in place. Based on our research, we proposed to the board that we go forward with an in-person meeting, but require all attendees to have either proof of vaccination or a negative test within 72 hours of the conference. To a person, they agreed. One of the meeting professionals we talked to said that groups often see an

uptick in attendance after putting in-person meeting protocols in place.

I am happy to report that indeed that proved true. At our conference opening on September 27, we had 825 registrants—robust attendance in a normal year, but considering that this is anything but a normal year, it was far beyond our wildest dreams. For example, we budgeted for 50 CEO Forum attendees—we had 100. That played out across every event we had. But between September 1, when we sent out our email announcing that we were going forward, and September 27, the day the conference opened, we picked up almost 300 attendees.

For those of you who attended, you know the palpable energy, the pent-up demand that existed, people who missed seeing one another—colleagues and friends—for too long. For those who were not able to attend, I can tell you the energy in and around the conference was at a level I don't think I've ever seen. I always joke that we could scrap the program as long as people had a chance to network, and this year it was especially true. The team here and the Conference Committee put together a terrific program, which you'll see between these pages this month, but in between the sessions (and even during, ahem) people were meeting, and meeting with one another. That was really heartening to see.

There were so many high points during the conference, but for me, my chat with TriNet CEO Burton Goldfield really stands out. I have always said that Burton is a true evangelist for this industry, and that really came through in our chat. He's not just an evangelist, he's an incurable optimist. But his optimism is based on data, facts, and track record. I think everyone came out of his session pumped about the industry and our future.

Another high point was the marketing presentation on the last day. If you haven't yet seen the video of PEO client



For those of you who attended, you know the palpable energy, the pent-up demand that existed, people who missed seeing one another—colleagues and friends—for too long.

testimonials, you need to. Keep the Kleenex handy—it's great. I think everyone left the conference armed with lots of new marketing tools and sky high about being in this industry at this time. Please visit napeo.org/testimonialvideo to see the video.

Again, you'll see lots of scenes from the conference here in the pages this month. For those who couldn't make it, we hope to see you next year, and for those of you who were there, hopefully you are able to re-live the great memories in this month's issue. ■



PAT CLEARY

President & CEO
NAPEO
Alexandria, Virginia

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to help you find it.



Your PEO has unique workers' compensation challenges, and Artex is here to help you find superior solutions.

For over 26 years, Artex has been there for PEOs of all sizes, throughout the United States. In conjunction with our carrier partner, Zurich, we've continued to provide seamless, superior service. Through the ups and downs of regulatory and insurance market cycles, economic turmoil, and now a global pandemic, our workers' compensation solutions are always here for you and your organizations, helping you find a better way.

For more information about workers' compensation solutions, contact us today.



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