WEST VIRGINIA CODE: §33-46A-6

§33-46A-6. Requirements for provisions of PEO agreements.

(a) Each professional employer agreement shall, at a minimum, allocate the responsibility to:

(1) Arrange for the payment of wages to covered employees;

(2) Withhold, collect, report and remit payroll-related and unemployment taxes;

(3) Make payments for employee benefits on behalf of covered employees; and

(4) Provide for mandatory workers' compensation coverage.

(b) Each professional employer agreement shall provide that the client-employer shall retain the right to hire, discipline, and terminate a covered employee: Provided, That every professional employment agreement may provide that the PEO has the right to terminate the professional employment agreement if a client-employer refuses without good cause a request from the PEO that the client-employer discipline or terminate a covered employee as may be necessary to fulfill the PEO's responsibilities under this article and the professional employer agreement.

(c) Except as otherwise provided by law:

(1) A client-employer is solely responsible for the quality, adequacy or safety of the goods or services produced or sold in client-employer's business;

(2) A client-employer is solely responsible for directing, supervising, training and controlling the work of a covered employee, and is solely responsible for the acts, errors or omissions of a covered employee, when the covered employee is engaged in the business activities of the client-employer;

(3) A PEO is not liable for the acts, errors or omissions of a client-employer or of a covered employee of the client-employer when the covered employee is acting under the express direction and control of the client-employer.

(d) Within twenty days of its execution, every professional services agreement shall be filed with the commissioner. Such agreements are confidential by law and privileged, are not subject to the provisions of chapter twenty-nine-b of this code, and are not open to public inspection.

(e) A covered employee is not, solely as the result of being a covered employee, an employee of the PEO for purposes of general liability insurance, fidelity bonds, surety bonds, wage bonds or liquor liability insurance carried by the PEO, unless the covered employee is included by specific reference in the professional employer agreement and applicable

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prearranged employment contract, insurance contract or bond.

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