Learning Objectives

After reading this chapter, workplace wellness professionals will be able to:

1. Describe the three branches of the federal government and the major functions of each.
2. Distinguish civil law and criminal law.
3. Understand the U.S. court system, including trial courts and appellate courts.
4. Describe the three levels of fault under tort law.
5. Define negligence and the four elements the plaintiff must prove in a negligence lawsuit.
6. Describe how courts determine duty in negligence cases.
7. Understand two defenses to negligence: waivers and primary assumption of risk.
8. Distinguish injuries due to negligent conduct from those due to inherent risks.
10. List and describe the four essential elements of a valid contract.

Yes, people need food and education. But one of the cornerstones of any society is a well-functioning legal system.

—Cherie Blair

A law is valuable not because it is law, but because there is right in it.

—Henry Ward Beecher
Introduction

All of us probably had some type of course on government, when we were in middle school or high school, where we learned about the U.S. legal system. However, many of us also may have forgotten what we learned in that course. Having a general understanding of how our legal system works is essential to fully appreciate the laws described in this book involving workplace wellness programs. This chapter provides a general overview of (1) the federal government and its three branches; (2) civil and criminal law; (3) the court system; (4) tort law, including negligence and strict liability; (5) defenses to negligence; and (6) contract law.

The Constitution and Three Branches of Government

The U.S. Constitution serves as the supreme law of the land. It created the national government and its three branches, as shown in Figure 1.1. Each state also has a constitution and the same three governmental branches, which function in a fashion similar to the federal government. The legislative branch, made up of the elected representatives of Congress, makes laws (statutes or codes), such as the Patient Protection and Affordable Care Act (ACA) that Congress passed and President Obama signed into law on March 23, 2010;1 and the Americans with Disabilities Act (ADA) that Congress passed and President George H. W. Bush signed into law on July, 26, 1990.2 The laws passed by the legislative branch are referred to as statutory law. The executive branch carries out the laws passed by Congress; this branch includes the president, vice president, and cabinet members who are the heads or secretaries of departmental agencies such as Health and Human Services (HHS), Education, Defense, and Homeland Security. The executive branch also contains regulatory agencies such as the Equal Employment Opportunity

Commission (EEOC), the Food and Drug Administration (FDA), the Occupational Safety and Health Administration (OSHA), and the Consumer Product Safety Commission (CPSC).

The departmental and regulatory agencies together are referred to as administrative agencies. Over the past several decades, both the number and staffs of these administrative agencies have grown tremendously. When individuals claim that the federal government is “too big,” they are often referring to the expansion of these administrative agencies. These agencies have a great deal of power.3 They:

- Enact rules and regulations, referred to as administrative law, related to the statutes passed by Congress (e.g., Health and Human Services created many of the rules and regulations related to the ACA).

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