



## Service Delivery & Liability Waiver

- ❑ *Feedback from F&A and General Services legal counsel – individuals or entities providing onsite programming should abide by the State of Tennessee Solicitation Policy, Regulation 0690-4-1.01 through .04.*
- ❑ *No person or business entity will be allowed to perform services in connection with WFHTN unless it is within the scope of a pre-existing contract between the State and the person/entity.*
- ❑ *Also, no State employee may take part in any wellness activity unless the department coordinating the activity has obtained a signed waiver from the employee. The department can exercise discretion to exempt certain activities such as educational programs.*
- ❑ Tennessee Code Annotated Section 50-6-110(a)(6) provides that workers' compensation is not available for injury or death due to the employee's voluntary participation in recreational, social athletic or exercise activities, including, but not limited to, athletic events, competitions, parties, picnics or exercise programs, whether or not the employer pays some or all of the costs of the activity unless of the following:
  - ❑ Participation was expressly or impliedly required by the employer;
  - ❑ Participation produced a direct benefit to the employer beyond employee health and morale improvement;
  - ❑ Participation was during the employee's work hours and part of work-related duties; or
  - ❑ Injury occurred due to unsafe condition during voluntary participation using facilities designated by or maintained by the employer and the employer had actual knowledge of the unsafe condition and failed to stop the activity or fix the issue.
- ❑ It is important to make sure that all activities are voluntary and not part of the employee's work-related duties. Complaints about unsafe conditions should be documented and responded to promptly.

All agencies should submit their planned wellness activities, programs and events to their respective legal offices for prior review to ensure compliance with the solicitation prohibition, liability protection and workers compensation provisions discussed above.