

Employment, Labor and Benefits Alert: Health Care Industry Becomes a Target for Strict FLSA Compliance

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Earlier this year, the United States Department of Labor (DOL) announced that its Wage and Hour Division was conducting a compliance initiative with respect to the health care industry in New York State. The DOL confirmed that the initiative “aims to promote compliance with the minimum wage, overtime, recordkeeping and child labor provisions of the Fair Labor Standards Act (FLSA), and to ensure employees are protected and compensated in accordance with the law.” It appears this latest initiative was prompted by the DOL’s finding that, over the past five years, less than 36% of health care employers investigated by the Wage and Hour Division’s Albany office were in compliance with the FLSA. As part of its recently announced effort to ensure conformity with the FLSA, the DOL is investigating several New York companies who could be subject to penalties should the DOL discover noncompliance with the law, which can include payment of back wages owed to its employees.

What Does This Mean for Employers in the Health Care Industry?

Hospitals, nursing homes, and other health care companies must be especially vigilant in training both management and staff to comply with state and federal wage and hour laws. This should include training on appropriately classifying employees as either exempt or non-exempt, proper time-keeping, including correctly recording all hours of work, and promptly investigating any complaints by employees concerning payment of wages or improper wage deductions. In addition, every health care company should take special care to prepare for what could be an inevitable investigation by the DOL by undertaking, ideally in consultation with counsel, internal reviews of its current employee job classifications and time-keeping policies and procedures or engaging counsel to conduct an audit of its policies and procedures. Taking these preventative steps can provide the ultimate safeguard against a government investigation and a solid defense to any class action that could eventually be filed by employees.

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If you have any questions regarding the subject covered in this Alert, or any related issue, please feel free to contact any the attorneys in Mintz Levin’s Employment, Labor and Benefits Practice (listed at right).

For assistance in this area please contact one of the attorneys listed below or any member of your Mintz Levin client service team.

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