

LEGAL UPDATE

August 2009 By: Richard M. Bethel

RECENT CHANGES IN LABOR LAWS THAT AFFECT ALL NEW YORK EMPLOYERS

NEW YORK EMPLOYERS REQUIRED TO PROVIDE WRITTEN NOTICE OF PAY & OVERTIME RATES

On July 28, 2009, Governor Paterson signed legislation amending New York Labor Law §195(1). The amended statute requires employers to provide written notice to employees at the time of hire of their rate of pay, the regular payday designated by the employer and, for non-exempt employees eligible for overtime compensation, their regular hourly rate and overtime rate of pay. The statute also requires the employer to obtain written acknowledgement from each employee of receipt of this notice.

The amended statute will be effective October 26, 2009 and applies to employees hired on or after that date. This change is intended to permit employees to verify that overtime compensation has been paid as required by law. Employers should review their workforce to confirm that all employees are properly classified as exempt or non-exempt for overtime purposes, are being paid overtime when appropriate and that all work hours are properly recorded and the records retained.

NEW YORK EXPANDS COBRA COVERAGE FOR EMPLOYEES TO 36 MONTHS

On July 29, 2009, Governor Paterson signed into law amendments to the New York Insurance Law which provide for an extension of self-paid continuation of health insurance from 18 to 36 months for employees who lose their jobs. Federal law (COBRA) provides that employees who lose their jobs can continue to purchase group health insurance through their former

employers' group health plans for 18 months. The federal statute is limited to employers with 20 or more employees. New York has long had a "mini-COBRA" law which extends substantially the same COBRA benefits to employees who lose their jobs with employers with fewer than 20 employees. This makes it possible for employees to maintain health insurance at a lower cost than if they had to purchase individual policies on the open market.

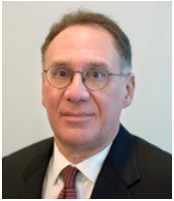
The new statute requires that group health insurance policies issued in New York must provide "COBRA coverage" for up to 36 months to employees who have lost their jobs. This applies both to employees eligible for continuation of health insurance on a group basis pursuant to federal law and to employees of smaller employers entitled to such coverage pursuant only to New York law. The amended statute was effective July 1, 2009 and applies to policies and contracts issued, renewed, modified, altered or amended on or after that date.

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The foregoing is intended to summarize the recent changes in New York labor laws and does not constitute legal advice. Please contact the Pryor Cashman attorney with whom you work with any questions you may have. If you would like to learn more about this topic or how Pryor Cashman LLP can serve your legal needs, please contact Richard Bethel at (212) 326-0154.

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Richard M. Bethel joined Pryor Cashman in 1985 and has been a partner at the firm since 1989. His major practice area is labor and employment law and litigation. Richard has regularly appeared before the National Labor Relations Board (NLRB), the Equal Employment Opportunity Commission (EEOC) and other administrative agencies, and in the federal and state courts on both the trial and appellate levels. A substantial part of Richard's practice is representing clients in collective bargaining and counseling clients on the full range of labor and employment matters. In recent years, representation of not-for-profit corporations, and in particular cemeteries, has been an increasing part of Richard's practice. In connection with that practice, he is a director of five cemetery corporations.

Richard is a 1980 graduate of New York University School of Law where he was Order of the Coif and an Arthur Garfield Hays Fellow. Richard won the Benjamin F. Butler Memorial Prize, the John Norton Pomeroy Prize and the American Jurisprudence Award in Labor Law.

Richard received his M.A. in Economics in 1977 from the New School for Social Research, where he was a Herbert Lehman Fellow. In 1973, Richard graduated from Oberlin College, where he was Phi Beta Kappa and a Senior Scholar. Richard spent a year at the London School of Economics as part of his undergraduate education.