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Healthcare Employment Law IN Brief

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Paying for Health Care: More Tax Forms

Get ready to send and receive more tax paperwork, one page at a time. Beginning with payments made in 2012, businesses must send a 1099 to corporations that they pay at least \$600 annually for goods or services.

Under current law, businesses must send a 1099 to individuals who they pay more than \$600 annually for services. Included in the thousands of pages of federal Health Care Reform are a few short paragraphs that significantly expand these reporting obligations to include payments to corporations for goods and services.

The impact will be significant. For example, you soon may be required to obtain a Taxpayer ID Number from, and send a 1099 to, each corporation from which you purchase supplies. Even small payments need to be tallied. For example, 1099s likely will need to be sent to the local office supply store where you purchase more than \$600 worth of odds and ends like paper, pens, and post-it notes, even if you only spend a few dollars per visit.

In addition, you may receive a lot more mail every January, and not the good kind like the holiday cards you received in December's mail. These envelopes will contain more tax forms.

Why did Congress include these changes in the Health Care Reform law? The Government estimates the annual "tax gap" (the difference between what taxpayers should, and what they actually, pay) to be more than \$300 Billion annually. The pressure is on to reduce the gap to help pay for changes to our health care system, especially when tax receipts are down due to the recession. So, whether you hire or do it yourself, get ready for more paperwork.

Government Required Pro-Union "Ads"

Beginning Monday (June 21, 2010) government contractors and subs covered by the National Labor Relations Act ("NLRA") will be required to post a notice informing employees about their right to join a union and also will be required to include an employee notice contract clause in their non-exempt subcontracts. A copy of the mandatory posting is attached.

Please keep in mind that a government contract generally involves the purchase, sale, or use of personal property or non-personal services, not federal financial assistance.

If you are covered by the Executive Order that requires the posting of this notice, expect questions and confusion. Space constraints resulted in the government deciding not to explain in the mandatory posting various exceptions unique to the health care industry (for example, the ability to prohibit solicitation in immediate patient care areas).

Even if you are not a government contractor but are covered by the NLRA, I encourage you to read the attached notice. It provides some insight into how the Board will advise employees who call with questions about common issues like discussing their wages with co-workers.

If you would like assistance in determining whether you are required to post the attached notice or modify your subcontracts, please call.

***This briefing does not constitute legal advice. Please see an attorney about any particular matter.**

Greg is a partner and a member of the firm's Employment and Labor and Healthcare Groups. Since 1994, he has counseled, trained, and represented Indiana hospitals, physician practices, long term care facilities, and other healthcare employers and human services organizations in dealing with a wide variety of employment matters. 06.18.2010

EMPLOYEE RIGHTS

UNDER THE NATIONAL LABOR RELATIONS ACT

The NLRA guarantees the right of employees to organize and bargain collectively with their employers, and to engage in other protected concerted activity. Employees covered by the NLRA* are protected from certain types of employer and union misconduct. This Notice gives you general information about your rights, and about the obligations of employers and unions under the NLRA. Contact the National Labor Relations Board, the Federal agency that investigates and resolves complaints under the NLRA, using the contact information supplied below, if you have any questions about specific rights that may apply in your particular workplace.

Under the NLRA, you have the right to:

- Organize a union to negotiate with your employer concerning your wages, hours, and other terms and conditions of employment.
- Form, join or assist a union.
- Bargain collectively through representatives of employees' own choosing for a contract with your employer setting your wages, benefits, hours, and other working conditions.
- Discuss your terms and conditions of employment or union organizing with your co-workers or a union.
- Take action with one or more co-workers to improve your working conditions by, among other means, raising work-related complaints directly with your employer or with a government agency, and seeking help from a union.
- Strike and picket, depending on the purpose or means of the strike or the picketing.
- Choose not to do any of these activities, including joining or remaining a member of a union.

Under the NLRA, it is illegal for your employer to:

- Prohibit you from soliciting for a union during non-work time, such as before or after work or during break times; or from distributing union literature during non-work time, in non-work areas, such as parking lots or break rooms.
- Question you about your union support or activities in a manner that discourages you from engaging in that activity.
- Fire, demote, or transfer you, or reduce your hours or change your shift, or otherwise take adverse action against you, or threaten to take any of these actions, because you join or support a union, or because you engage in concerted activity for mutual aid and protection, or because you choose not to engage in any such activity.
- Threaten to close your workplace if workers choose a union to represent them.
- Promise or grant promotions, pay raises, or other benefits to discourage or encourage union support.
- Prohibit you from wearing union hats, buttons, t-shirts, and pins in the workplace except under special circumstances.
- Spy on or videotape peaceful union activities and gatherings or pretend to do so.

Under the NLRA, it is illegal for a union or for the union that represents you in bargaining with your employer to:

- Threaten you that you will lose your job unless you support the union.
- Refuse to process a grievance because you have criticized union officials or because you are not a member of the union.
- Use or maintain discriminatory standards or procedures in making job referrals from a hiring hall.
- Cause or attempt to cause an employer to discriminate against you because of your union-related activity.
- Take other adverse action against you based on whether you have joined or support the union.

If you and your coworkers select a union to act as your collective bargaining representative, your employer and the union are required to bargain in good faith in a genuine effort to reach a written, binding agreement setting your terms and conditions of employment. The union is required to fairly represent you in bargaining and enforcing the agreement.

Illegal conduct will not be permitted. If you believe your rights or the rights of others have been violated, you should contact the NLRB promptly to protect your rights, generally within six months of the unlawful activity. You may inquire about possible violations without your employer or anyone else being informed of the inquiry. Charges may be filed by any person and need not be filed by the employee directly affected by the violation. The NLRB may order an employer to rehire a worker fired in violation of the law and to pay lost wages and benefits, and may order an employer or union to cease violating the law. Employees should seek assistance from the nearest regional NLRB office, which can be found on the Agency's website: www.nlrb.gov.

Click on the NLRB's page titled "About Us," which contains a link, "Locating Our Offices." You can also contact the NLRB by calling toll-free: **1-866-667-NLRB (6572)** or (TTY) **1-866-315-NLRB (6572)** for hearing impaired.

***The National Labor Relations Act covers most private-sector employers.** Excluded from coverage under the NLRA are public-sector employees, agricultural and domestic workers, independent contractors, workers employed by a parent or spouse, employees of air and rail carriers covered by the Railway Labor Act, and supervisors (although supervisors that have been discriminated against for refusing to violate the NLRA may be covered).



This is an official Government Notice and must not be defaced by anyone.

U.S. Department of Labor