Engage PEO Client Alert

California Year End Legislative Updates

NEW UNPAID REPRODUCTIVE LOSS LEAVE

WHAT'S NEW: Beginning January 1, 2024, California employers with five (5) or more employees will be required to provide employees with up to five (5) days of unpaid Reproductive Loss Leave.

WHAT IT MEANS: California employers will be required to provide employees who have worked for at least 30 days, with five (5) days of protected Reproductive Loss Leave following each reproductive loss event. An employer, however, is not obligated to provide more than a total of 20 days of protected Reproductive Loss Leave within a 12-month period. Details of the protected leave are as follows:

- Reproductive loss" includes a miscarriage, failed surrogacy, stillbirth, unsuccessful "assisted reproduction" (i.e., artificial insemination or embryo transfer) or a failed adoption.
- Employees may take the protected leave on nonconsecutive days, but the leave must be completed within three (3) months of the reproductive loss.
- The protected Reproductive Loss Leave may be unpaid unless the employer voluntarily chooses to designate the leave as paid. An employee, however, may use other available paid leave, including but not limited to paid time off, vacation or accrued sick leave.
- Employees are not required to provide any supporting documentation concerning their request for Reproductive Loss Leave, and employees are protected against retaliation for using the protected leave or discussing or sharing information concerning the leave.
- Employers will be required to maintain confidentiality regarding their employee's reproductive loss leave as it arises.

WHAT EMPLOYERS SHOULD DO: California employers should update their employee handbooks and leave policies to include the new protected leave entitlement. Additionally, employers should train supervisors/management and their HR departments on the new leave entitlement and best practices for handling these new types of leaves of absence.

FURTHER UPDATE TO NON-COMPETE AGREEMENTS

WHAT'S NEW: Between now and February 14, 2023, California employers will need to notify all former and current employees subject to a non-compete agreement that those agreements or clauses are void.

WHAT IT MEANS: Last month California passed a law making non-competes not only void, but also illegal to enforce. Please refer to our prior alert. California has made additional changes to the non-compete laws, now requiring employers to notify all former and current employees who signed non-compete agreements or other agreements that include non-compete provisions that were signed after January 1, 2022, that the clause or agreement is void. Employers must complete the notification before February 14, 2024.

WHAT EMPLOYERS SHOULD DO: Employers should review their employment contracts to see if any non-compete clauses were included, compile a list of former or current California employees that have executed non-compete agreements, and notify them that their agreement is void.

FURTHER UPDATE TO CANNABIS USE

WHAT'S NEW: Beginning January 1, 2024, California employers will be prohibited from asking job applicants about prior use of cannabis.

WHAT IT MEANS: Last year California passed a law, which is set to take effect January 1, 2024, that prohibits employers from taking adverse action or discriminating against a prospective or current employee due to their off-duty use of cannabis and prohibiting drug testing that detects inactive cannabis metabolites. For additional information, please refer to our previous client alert. This new law takes it a step further by prohibiting employers from inquiring about cannabis use, in an effort to plug the loophole that the prior law created. Exceptions do apply for employers working with certain state and federal agencies.

WHAT EMPLOYERS SHOULD DO: Employers should review their interviewing and onboarding questions and process to ensure that they are not asking job applicants about their prior use of cannabis. Additionally, employers who use drug testing as part of the onboarding process should confirm with their vendors that their drug testing complies with the new laws.

MINIMUM WAGE CHANGE FOR HEALTHCARE WORKERS

WHAT'S NEW: Beginning June 1, 2024, healthcare workers will be subject to their own industry specific minimum wage, which will ultimately reach $25 per hour.

WHAT IT MEANS: Beginning June 1, 2024, the minimum wage of healthcare workers will increase to $23/hour for larger hospitals employing 10,000 or more employees, and $21/hour for smaller hospitals, primary care facilities and other types of healthcare facilities. Over the course of the next several years, the minimum wage for all healthcare workers will reach $25/hour.

Healthcare workers covered by this new minimum wage law include, but are not limited to, nurses, physicians, caregivers, medical residents, as well as support staff, such as janitors, housekeeping staff, groundskeepers, guards, clerical workers, food service workers, and medical billing personnels, regardless of formal job title.

WHAT EMPLOYERS SHOULD DO: Employers in the healthcare industry should review the wages of their employees to ensure that they are paying the applicable minimum wage.

Please reach out to your Engage Human Resources Consultant if you have any questions concerning this alert or other HR-related matters.