

RISQ Review

PROPERTY & CASUALTY INSURANCE

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HR, & Compliance**

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Compliance**

The Importance of Two-factor Authentication

“As cyber attacks become more and more common, protecting your data is increasingly difficult. In fact, a study from Juniper Research found that by 2023, cyber criminals are expected to steal an estimated 33 billion records.

In light of the growing number of cyber attacks, many companies are turning to two-factor authentication (also commonly called 2FA or multifactor authentication) to enhance their cyber security.”

[Full Article](#)

Zywave

PEOs and Workers' Compensation

“Companies may need to work with professional employer organizations (PEOs) to obtain contract workers for several reasons—whether it’s to account for their seasonal production periods, fulfill large contracts or secure contract-to-hire positions. Yet, before using a PEO to acquire employees, it is important for employers to understand what the responsibilities are for each party involved and how they can negotiate the contracts for service.

As clients, employers must understand that—depending on what the contract states—they may be liable for any workers’ compensation claims that arise from contract workers if such employees become ill or injured while working at their facilities.” [Full Article](#)

Zywave



Amazon to Overhaul Warehouse Worker Metric Cited in Injuries

“Amazon.com Inc. is overhauling a controversial worker-productivity yardstick that has drawn the ire of warehouse employees who say it imposes an unsafe burden on them.

The world’s largest online retailer uses sophisticated algorithms to monitor productivity at its facilities, and employees must explain why they’ve been away from their workstations — what Amazon calls “time off task.” If they reach a certain threshold they’ll be issued warnings and even terminated.” [Full Article](#)

RISQ Review

EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

LGBTQ+ Protections Under the ACA Are In Effect Again!

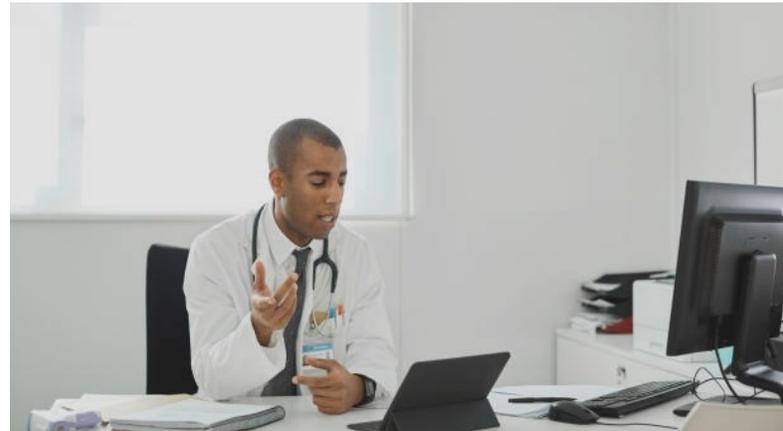
“Many questions remain unresolved about the scope of guidance— but one thing is certain: HHS will have more to say on this issue, and so, too, will the courts. Employers should know whether their plans contain provisions that could be discriminatory and could therefore put the employer at risk for enforcement action or discrimination claims.” [Full Article](#)

Jackson Lewis P.C.

Senate Finance Committee Considers Telehealth Expansion; Payment Approaches Are Key Talking Point

“During a congressional hearing, a healthcare policy expert said a fee-for-service is not a viable way to fund a Medicare telehealth expansion. Implementation of capitated payment models for telehealth is essential both to manage overall spending and to promote innovation, experts said. Pending legislation would permanently incorporate some of the telehealth waivers that were established in response to the public health emergency.” [Full Article](#)

Healthcare Financial Management Associations [HFMA]



PBMs Keep ERISA Preemption Fight Alive

“Five months after the Supreme Court of the United States handed down a loss to the pharmacy benefit manager (PBM) lobbying group Pharmaceutical Care Management Association (PCMA), filed a brief in the Eighth Circuit arguing that the ruling does not narrow the scope of ERISA preemption for the PBM regulation. PCMA’s filing signified the opening round of the next fight as to whether the Supreme Court’s ruling will be narrowly construed to apply to rate-setting regulation or applied more expansively to preempt PBM regulation of other conduct.” [Full Article](#)

Duane Morris LLP



RISQ Review

EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

Second-Guessing The Advice Columns: After-Hours Texts From The Boss

“Miss Manners should stick to writing about ice cream forks.” [Full Article](#)

Constangy Brooks, Smith & Prophete LLP



Compliance Concerns for Employers with New, Permanent Out-of-State Workforces

“Many businesses saw their workforces turn remote during the pandemic, with some permitting employees to work from anywhere.” [Full Article](#)

Michael Best & Friedrich LLP

Reassignment Is The Reasonable Accommodation Of Last Resort

“So my partners and I have repeatedly written that, under the Americans with Disabilities Act (ADA), employers – not employees – get to choose among available accommodations to enable an employee with a disability to perform their essential job functions or enjoy equal privileges and benefits of employment.” [Full Article](#)

Shawe Rosenthal LLP



COVID-19: U.S. Employer Checklist Reopening Strategies And Return-to-Work Policies After COVID-19 Pandemic

“The following is a list of suggested practices for businesses to consider during the reopening process as they return employees to in-person work after an extended period of working remotely.” [Full Article](#)

K&L Gates LLP

RISQ Review

EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

HHS Announces Prohibition on Sex Discrimination Includes Discrimination on the Basis of Sexual Orientation or Gender Identity

“The Office for Civil Rights will interpret and enforce Section 1557 and Title IX’s prohibitions on discrimination based on sex to include: [1] discrimination on the basis of sexual orientation; and [2] discrimination on the basis of gender identity. Section 1557 prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in covered health programs or activities.” [Full Article](#)

U.S. Department of Health and Human Services [HHS]

The Pocket Guide to COBRA Subsidy Notices

“Summary of COBRA notices required by ARPA, in chart form. For each such notice, the chart includes [1] Who gets this notice? and [2] Deadline to furnish this notice.” [Full Article](#)

Proskauer



2022 Benefit and Payment Parameters Part Two Includes Revised Cost-Sharing Limits, Rules for COBRA-Related Exchange Special Enrollments

“The maximum annual limit on cost-sharing for 2022 will increase to \$8,700 for self-only coverage and \$17,400 for other than self-only coverage. Note that this is \$400 less than the proposed limits of \$9,100 for self-only coverage and \$18,200 for other than self-only coverage. The regulations finalize a variety of rules for special enrollment periods, including some that impact COBRA coverage.” [Full Article](#)

Thomson Reuters / EBIA



Mental Health Parity Compliance Returns to Forefront for Group Health Plan Sponsors

“Effective as of February 10, 2021, employers must be ready to prove their compliance with MHPAEA standards, particularly for ‘non-quantitative treatment limitations’. These standards used for MH/SUD benefits must be comparable to and applied no more stringently than standards used for medical and surgical benefits.” [Full Article](#)

Jackson Lewis P.C.

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EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

Labor Department Further Delays FLSA Tip Regulations Final Rule Until the End of 2021

“On April 28, 2021, the U.S. Department of Labor (DOL) announced that it will further delay, until December 31, 2021, the effective date of portions of the previous administration’s Tip Regulations Final Rule under the Fair Labor Standards Act (FLSA). That Final Rule, issued in late December 2020, originally was scheduled to go into effect on March 30, 2021, but the DOL previously extended that deadline to April 30, 2021.” [Full Article](#)

Jackson Lewis



OSHA Releases Guidance for Employers Considering Vaccine Requirements

“On April 20, 2021, the Occupational Safety and Health Administration (OSHA) released three new FAQs for employers who recommend or require employees to receive COVID-19 vaccines. OSHA is responsible for enforcing workplace safety standards across the US. McDermott previously reported that employers can require employees to be vaccinated as a condition of employment, though employers should consider several factors before making the decision to require employee vaccinations.” [Full Article](#)

McDermott Will & Emery

Can Diversity Initiatives, Religious Freedom and LGBTQ+ Rights Co-Exist at Work? Yes, They Can

“In the wake of the U.S. Supreme Court’s decision in *Bostock v. Clayton County* recognizing that LGBTQ+ employees are protected by Title VII of the Civil Rights Act of 1964, employers are increasingly being placed in the difficult position of weighing often diametrically opposed rights. Religious freedom or LGBTQ+ rights; how do you choose? It’s simple; you don’t.” [Full Article](#)

Ford Harrison



Houston - We Have a Problem: Lessons to Learn from Elon Musk on the National Labor Relations Act and Social Media

“The National Labor Relations Act (“NLRA”) may not be rocket science, but even Tesla CEO and Space X founder Elon Musk can use some guidance from mission control to avoid turbulence from its application. As part of a spate of violations of the NLRA by Tesla, on Thursday March 25, 2021, the National Labor Relations Board (NLRB) upheld a 2019 ruling that found that a 2018 tweet made by Musk violated the NLRA by threatening to revoke benefits from Tesla employees if they joined a union.” [Full Article](#)

Breazeale Sachse & Wilson

RISQ Review

EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

IRS Issues Guidance on COBRA Subsidies Just in Time

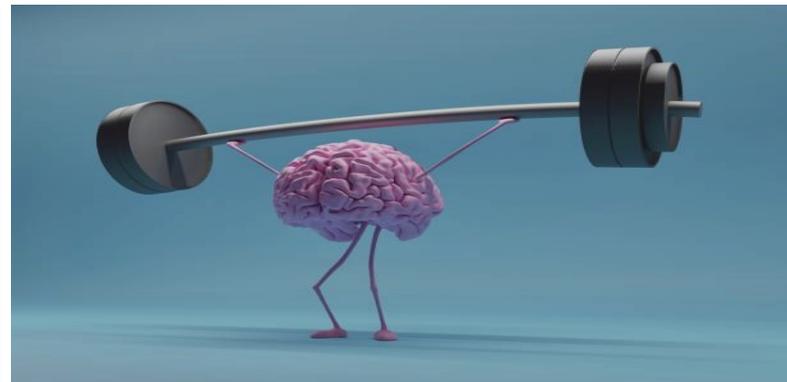
“A determination of whether a termination of employment is 'involuntary' is based on the facts and circumstances. The extended election period applies only to a group health plan subject to Federal COBRA, and does not apply to a group health plan subject to State mini-COBRA unless the State mini-COBRA statute itself provides for a similar extended election period.” [Full Article](#)

Ice Miller LLP

DOL Actively Enforcing Newly Required Mental Health Comparative Analysis

“For insured plans, this responsibility falls on the insurer. However, for self-insured plans, the employer is solely responsible and cannot expect third-party administrators to prepare the analysis. Preparing an analysis that compares the application of NQTLs to MH/SUD benefits and to medical and surgical benefits is no simple matter. Agency requests for the comparative analysis may be random or in response to a complaint alleging a parity violation.” [Full Article](#)

Bradley



Game-Changer: The CDC Lifts COVID-19 Masking and Distancing Restrictions for Fully Vaccinated Individuals

“On May 13, 2021, the Centers for Disease Control and Prevention (CDC) announced that Americans who have been fully vaccinated against COVID-19 no longer need to wear a face covering or practice physically distancing in any setting.” [Full Article](#)

Littler Mendelson P.C.



DOL Withdraws Independent Contractor Regulations, Meaning More Uncertainty for Employers

“On May 6, 2021, the U.S. Department of Labor formally withdrew final regulations promulgated earlier this year under the prior administration which set forth, for the first time by way of an Administrative Procedure Act rulemaking, the analysis the Department would use to determine whether a worker was an employee or independent contractor under the federal Fair Labor Standards Act (FLSA).” [Full Article](#)

Littler Mendelson P.C.

RISQ Review

STATE & INTERNATIONAL COMPLIANCE

ALASKA



Good News for Alaska Employers Faced With Employee Overtime Claims

“In a departure from well-established Alaska precedent, the Alaska Court ruled that Alaska’s Wage and Hour Act will be interpreted consistently with the federal FLSA with regard to the employer’s burden to prove that the employee falls within the exemption in *Buntin v. Schlumberger Technology Corp.*, Slip Op. No. 7521 (April 23, 2021).” [Full Article](#)

Lane Powell

NEW YORK



New York State Passes the HERO Act Imposing New Health and Safety Standards in the Workplace

“Responding to calls for more stringent safety protocols revealed by the COVID-19 pandemic, on May 5, 2021 Governor Cuomo signed the New York State Health and Essential Rights (HERO) Act (the “Act”), which establishes mandatory standards for COVID-19 as well as all airborne infectious diseases.” [Full Article](#)

Cullen and Dykman LLP

NEW YORK



New York Heroes Act Requires Workplace Safety Measures

“In an effort to prevent the occupational exposure to an airborne infectious disease, the New York legislature has passed the aptly named New York Health and Essential Rights Act, or NY HERO Act, which amends the New York Labor Law (NYLL) by adding two new sections.¹ This bill has been delivered to Governor Cuomo’s desk and he is expected to sign it into law.” [Full Article](#)

Little Mendelson

ILLINOIS



Illinois Amends Employee Sick Leave Act to Cover Personal Care for Family Members

“The Illinois Employee Sick Leave Act (ESLA) has been amended to require employers to allow employees to take personal sick leave for absences due to ‘personal care of a covered family member.’” [Full Article](#)

Jackson Lewis P.C. Funai

ILLINOIS



Masuda Funai Employment Newstflash - Improper Use of an Employee's Fingerprints, Eyes or Face UPDATED

“Earlier this year, we published the below summary of the Illinois Biometric Information Privacy Act (“BIPA”). Because of increased litigation in this area over the last couple of months, we are publishing the information again and urging companies to evaluate their use of employee fingerprints, hand scans, retina scans or facial recognition technology anywhere in the workplace.” [Full Article](#)

Masuda Funai

RISQ Review

STATE & INTERNATIONAL COMPLIANCE

CALIFORNIA



CALIFORNIA REPUBLIC

US: New California Law Gives Rehiring Rights to

Employees in Hospitality, Business Services Industries

“California Governor Gavin Newsom signed a bill on 16 April 2021, requiring hotel, event center, airport hospitality and janitorial employers to give priority to rehire workers laid off during the pandemic when jobs become available.” [Full Article](#)

DLA Piper LLP

CALIFORNIA



CALIFORNIA REPUBLIC

Coming Soon: Revisions to Cal OSHA's COVID-19

Emergency Temporary Standards Anticipated by June 2021

“At the Cal OSHA Standard Board meeting on April 15th, several public commenters admonished the Standard Board about the lack of guidance from Cal OSHA or in the ETS regarding vaccinated individuals. The Standard Board disclosed that revisions to the ETS, including revisions about vaccinated individuals are in progress. Though it would be difficult due to tight timelines, the Standard Board hoped to have revisions passed by June, when California is tentatively set to fully reopen.” [Full Article](#)

Jackson LewisP

PENNSYLVANIA



Philadelphia City Council Passes Ordinance Banning Pre-Employment Testing for Marijuana

“As a result of a new ordinance passed by Philadelphia City Council, employers, labor organizations, and employment agencies in Philadelphia may not require a prospective employee to submit to testing for the presence of marijuana in the person’s system as a condition of employment. The new ordinance is a reflection of the current shift in attitudes concerning marijuana and the movement towards legalization of the drug.” [Full Article](#)

Lewis Brisbois

PENNSYLVANIA



Philadelphia Strengthens Workplace

Protections for Victims of Domestic Violence

“On May 11, 2021, Philadelphia, Pennsylvania enacted amendments that immediately strengthen workplace protections for victims of domestic violence.” [Full Article](#)

Little Mendelson P.C.

VIRGINIA



US: New Overtime Law in Virginia

“On 31 March 2021, Governor Ralph Northam signed the Virginia Overtime Wage Act (VOWA) into law.” [Full Article](#)

DLA Piper LLP