

RISQ Recap

PROPERTY & CASUALTY INSURANCE

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HR, & Compliance

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Compliance

CHINA INSTRUCTS STATE INSURERS TO REVIEW EXPOSURE TO RUSSIA, UKRAINE

“China has told top state insurers to perform urgent checks on their exposure to Russia and Ukraine, as concerns swirl about the damage to the two economies amid intense fighting, according to two sources and documents seen by Reuters.” [Full Article](#)

Insurance Journal

NATIONWIDE EXPANDS USE OF LEAK SENSORS FOR HOMEOWNERS

“Nationwide Insurance has become the latest large insurer to expand its use of leak-detection and other sensors for homeowners, offering a small discount on premiums. The company announced this week that it has teamed up with Notion, a firm affiliated with Comcast, the national TV cable and communications company. Customers who opt in to the Nationwide smart home program will receive a discount on the monitoring systems and a \$50 reduction in annual premiums.”

[Full Article](#)

Insurance Journal



SPRING STORM SAFETY TIPS FOR BUSINESSES

“Spring can bring about some of the year’s most dangerous weather and wreak havoc on many aspects of a company’s operations. This article discusses the weather threats to watch out for during spring and measures businesses can take to minimize damage.” [Full Article](#)

Zywave



RISQ Recap

EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

COVID-19 TESTING PROVIDER SUES PLANS AND TPAs FOR VIOLATING GROUP HEALTH PLAN COVERAGE MANDATE

“In a footnote to its opinion, the court acknowledged the plan's assertion that the price of the testing was too high and noted that its ruling did not foreclose a counterclaim challenging the propriety of the pricing.” [Full Article](#)

Thomson Reuters / EBIA



RECENT GUIDANCE ON IMPLEMENTING THE NO SURPRISES ACT

“The No Surprises Act was enacted in December 2020 and went into effect on January 1, 2022. With just a year between enactment and the law's effective date, the Biden administration moved swiftly to implement the law by issuing several interim final rules, one proposed rule, and guidance. But federal officials have not stopped there and have continued to issue new guidance, answer questions, and establish new processes. This article summarizes recent federal guidance on the No Surprises Act.” [Full Article](#)

Health Affairs

TOLLING OF IMPORTANT HEALTH AND WELFARE AND RETIREMENT PLAN DEADLINES EXTENDED AGAIN DUE TO COVID-19

“On February 18, 2022, President Biden again formally extended the COVID-19 National Emergency. Certain deadlines continue to be tolled for one year (or, if earlier, 60 days from the end of the National Emergency). For Participants: [1] COBRA qualifying event and disability extension notices [2] COBRA election [3] COBRA premium payments [4] HIPAA special enrollment period [5] Benefit claims and appeals [6] External review [7] Perfecting a request for external review. For Plan Administrators: COBRA Election Notice.” [Full Article](#)

Groom Law Group



THE CLOCK IS TICKING: HIPAA SMALL BREACH NOTIFICATIONS DUE MARCH 1ST

“Covered entities must report small breaches to OCR no later than 60 days after the end of the calendar year in which the small breaches were discovered. Steps to take for notifications [1] Designating a person within the covered entity [2] Preparing the contents of the notification in advance [3] Printing out and retaining a 'receipt' of the filing of the notification [4] Verifying that the covered entity has appropriate documentation in place.” [Full Article](#)

Davis Wright Tremaine LLP

RISQ Recap

EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

SENATE INTRODUCES BILL—REQUIRES CORPORATE AUDITS UNCOVER FORCED LABOR PRACTICES IN SUPPLY CHAINS

“On February 3, 2022, Senators Joshua Hawley (R) and Kirsten Gillibrand (D) introduced a bill aimed at preventing the use of forced labor in corporate supply chains by requiring certain publicly traded companies to perform detailed, annual audits and disclose the results to the federal government. The Slave-Free Business Certification Act of 2022 would require certain covered entities to annually audit their operations for evidence of forced labor, including suppliers, secondary suppliers, and on-site servicers. The Act defines a "covered business entity" broadly: any issuer, as defined in the Securities Act of 1933, involved in mining, production, or manufacture of goods for sale, that has annual revenue exceeding \$500 million.” [Full Article](#)

Jones Day

EEOC RAMPS UP ENFORCEMENT LAWSUITS

“Protection against unlawful treatment in the workplace is a goal shared by employers and employees alike. Employers that may have relaxed their compliance with federal employment and discrimination laws during the pandemic take note: the U.S. Equal Employment Opportunity Commission (EEOC) has been ramping up its enforcement activities; meaning employers should refocus on their internal review, implementation, and compliance with anti-discrimination, harassment, retaliation laws under the EEOC’s enforcement arm to avoid EEOC changes, investigations, and lawsuits.” [Full Article](#)

Dickinson Wright



THE DUTY TO PRESERVE DOCUMENTS AND DATA WHEN ON NOTICE OF LITIGATION OR THREATENED LITIGATION

“When an employer receives notice of a lawsuit or a threat of a lawsuit, the employer has a duty to preserve records, including personnel, employment and any other records that may relate to the matter. Courts will assess sanctions against an employer when it determines that the employer failed to preserve information that was in the employer’s control, the employer failed to take reasonable steps to preserve the information, and the loss of the information impacts the litigation. As a result, it is critical that a litigation hold notice be issued upon notice of a lawsuit or a threat of a lawsuit.” [Full Article](#)

White & Williams

THE H-1B CAP LOTTERY FOR FY 2023 IS LESS THAN ONE-MONTH AWAY. ARE YOU READY?

“U.S. Citizenship and Immigration Services (“CIS”) is once again requiring employers that want to sponsor a worker for an H-1B visa—which is awarded to employees who possess highly specialized knowledge and a bachelor’s or higher degree in a specific specialty—to register for a chance to be one of 85,000 applicants permitted to submit their H-1B petitions for processing. Registration for the H-1B cap lottery for the 2023 fiscal year starts at noon on Tuesday, March 1, and closes at noon on Friday, March 18. CIS intends to notify lottery winners by March 31.” [Full Article](#)

Benesch, Friedlander, Coplan & Aronoff

RISQ Recap

EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

TEXAS DISTRICT COURT VACATES ARBITRATION PROVISIONS OF HHS REGS UNDER NO SURPRISES ACT

“The court held that the arbitration procedures of the rule conflicted with the express terms of the No Surprises Act in violation of the Administrative Procedures Act (APA). This decision, while a 'win' for providers, leaves the details of the arbitration process under the Act uncertain for now, as the agencies presumably go back to the proverbial drawing board.” [Full Article](#)

ArentFox Schiff LLP



FEDS CLARIFY AT-HOME COVID-19 TEST COVERAGE RULES

“The original guidance left several questions unanswered concerning delivery of at-home tests and what effect shortages of tests might have on plan sponsors. The February 4 FAQs outline how plans can comply with the original mandate but grant latitude to deal with testing kit scarcity and other issues.” [Full Article](#)

Fisher Phillips

IMPLICATIONS OF HOSPITAL PRICE TRANSPARENCY ON HOSPITAL PRICES AND PRICE VARIATION

“This brief offers perspectives on factors contributing to hospital pricing and price variation, discusses potential stakeholder uses and impacts of emerging transparency data, and offers an actuarial perspective on emerging transparency requirements.” [Full Article](#)

American Academy of Actuaries



VARIATION IN PATIENTS' USE OF, EXPERIENCES WITH, AND ACCESS TO TELEHEALTH DURING THE FIRST YEAR OF THE COVID-19 PANDEMIC

“During the first year of the pandemic, 37.4 percent of nonelderly adults and 46.2 percent of elderly adults had at least one telehealth. Publicly insured nonelderly adults were more likely to have had a phone visit, as opposed to a video visit, than those with private insurance, which may reflect differences in patient access to video technology or the telehealth modalities insurers cover.” [Full Article](#)

Urban Institute

RISQ Recap

EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

HOW TO CREATE A LEVEL PLAYING FIELD IN THE WORKPLACE THROUGH DEI EFFORTS

“We know that a more diverse workforce is more competitive, more lucrative, and better for employees and businesses as a whole. And there are many ways that HR professionals and company leadership can manage workforce diversity to achieve success, both in their organization and employees’ individual careers. The concept of equal opportunity employment has long been established in the HR space. But in recent years, companies have been moving toward not only avoiding discrimination, but actively promoting inclusion.” [Full Article](#)

Phelps Dunbar LLP

EEOC’S ADVICE TO EMPLOYERS ON ACCOMMODATING RELIGION AND COVID-19 VACCINES IN THE WORKPLACE

“As employees return to the office, many employers have questions about how to address requests for religious accommodations for COVID-19 vaccination requirements. As a result, on March 1, the Equal Employment Opportunity Commission (EEOC) issued guidance on responding to such accommodation requests. As a general matter, employees and job applicants can request an accommodation for an employer’s COVID-19 vaccination requirement if it conflicts with their sincerely held religious beliefs, practices or observances.” [Full Article](#)

Day Pitney



IRS ISSUES GUIDANCE ON THE TAX COURT’S REVIEW OF EMPLOYMENT STATUS DETERMINATIONS

“The IRS issued Notice 2022-13, effective February 7, 2022, regarding the Tax Court’s review of an IRS determination as to whether a worker is properly classified as an employee or an independent contractor. The new guidance modified and superseded Notice 2002-5 and Rev. Rul. 2009-39 so that formal IRS notice under section 7346 is no longer a requirement for a taxpayer to petition the Tax Court for review of an IRS’s worker reclassification determination.”

[Full Article](#)

Steptoe and Johnson

ENFORCEMENT AGAINST COVID-19 RELATED FRAUD: TWO-YEAR ANNIVERSARY UPDATE

“On the eve of the pandemic’s two-year anniversary, the U.S. Department of Justice (DOJ) released updated statistics on its efforts to combat COVID-19 related fraud and announced the appointment of a director of COVID-19 Fraud Enforcement. To date, DOJ has charged over 1,000 individuals with criminal offenses involving losses exceeding \$1.1 billion; seized over \$1 billion in Economic Injury Disaster Loan (EIDL) proceeds; and conducted over 240 civil investigations into more than 1,800 individuals and entities for alleged misconduct in connection with pandemic relief loans totaling more than \$6 billion.” [Full Article](#)

Morrison & Foerster LLP

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EMPLOYEE BENEFITS, HUMAN RESOURCES, & COMPLIANCE

CONGRESS REOPENS DOOR FOR HSA WITH NO-DEDUCTIBLE TELEHEALTH, BUT WITH A HOLE

“The Consolidated Appropriations Act of 2022 restores the exception for telehealth and other remote services, but only for the period from April 1 through December 31, 2022. This means that if a plan's year started at any time from January 1, 2022 through March 31, 2022, and the plan did not impose the minimum deductible for telehealth or other remote services from the start of the plan year through March 31, 2022, the plan would not be a high-deductible health plan for that period. Consequently, participants covered by the plan would be ineligible to make or receive HSA contributions for that period.” [Full Article](#)

Proskauer



BENEFITS ISSUES THAT ARISE UPON MISCLASSIFICATION OF EMPLOYEES

“The effects of worker misclassification on employee benefit plans may include, but are not limited to: [1] failure to provide employee benefit coverage and appropriate remedial action; [2] failure to make employer and employee contributions to retirement and other employee benefit plans; [3] failure to provide the individual with required benefit plan disclosure and administrative notices; and [4] excise taxes under the ACA for failure to provide required health plan coverage.” [Full Article](#)

Foley & Lardner LLP

NO SURPRISES ACT: GUIDANCE FOR HEALTH PLANS AND INSURERS

“Recently enacted legislation has restricted surprise medical billing for health plan participants who receive services at out-of-network health provider facilities in emergency contexts. The legislation also restricts surprise medical billing for services provided by health providers at in-network facilities and includes protections involving air ambulance services. Effective beginning in 2022, the legislation imposes significant compliance requirements for group health plans and insurers.” [Full Article](#)

Thomson Reuters



NEW ILLINOIS STATE LAW IMPOSES DISCLOSURE REQUIREMENTS ON GROUP HEALTH PLANS

“The CCDA requires employers that sponsor group health plans with employees in Illinois to disclose a comparison of the plan's coverage to certain 'Essential Health Benefits' required by Illinois state law. The CCDA broadly applies, regardless of the employer's size or its location, to fully insured and self-funded group health plans. Additionally, the Illinois DOL has taken the position that the CCDA also applies to ERISA-covered self-funded group health plans.” [Full Article](#)

Miller Johnson

RISQ Recap

STATE & INTERNATIONAL COMPLIANCE

CALIFORNIA



CALIFORNIA SUPREME COURT CLARIFIES BURDEN OF PROOF IN WHISTLEBLOWER RETALIATION CLAIMS

“The California Supreme Court has clarified that state whistleblower retaliation claims should not be evaluated under the McDonnell Douglas test, but rather under the test adopted by the California legislature in 2003, thus clarifying decades of confusion among the courts.” [Full Article](#)

Hunton Andrews Kurth

VIRGINIA



VIRGINIA BEGINS PROCESS TO REVOKE PERMANENT COVID-19 WORKPLACE SAFETY STANDARD

“The Virginia Department of Labor and Industry’s (DOLI’s) Safety and Health Codes Board convened and voted to recommend revoking the Commonwealth’s COVID-19 permanent workplace safety standard. This action comes after newly-elected Governor Glenn Youngkin issued Executive Order 6 directing the Board to convene an emergency meeting to consider whether there is a continued need for the permanent workplace safety standard.” [Full Article](#)

Reed Smith

NEW YORK



NEW YORK EMPLOYERS: CONTINUE IMPLEMENTING YOUR AIRBORNE INFECTIOUS DISEASE EXPOSURE PREVENTION PLANS AND REVIEW YOUR MASKING POLICIES

“New York employers must continue to implement airborne infectious disease exposure prevention plans, pursuant to the New York Health and Essential Rights (NY HERO) Act, through at least March 17, 2022. The law, however, no longer requires many New York employers to mandate their employees wear masks in the workplace.” [Full Article](#)

Greenberg Traurig

D.C.



D.C.’S NON-COMPETE LAW POISED TO BE DELAYED UNTIL OCTOBER 1, 2022

“The District of Columbia’s ban on non-compete agreements is delayed again. As we previously reported, the DC Government enacted The Ban on Non-Compete Agreements Amendment Act in January 2021, which creates one of the most comprehensive non-compete bans in the country.” [Full Article](#)

Proskauer Rose

ILLINOIS



ILLINOIS SUPREME COURT ELIMINATES DEFENSE TO BIOMETRIC PRIVACY CLASS ACTIONS

“Illinois’ Biometric Information Privacy Act (BIPA) has spawned a tsunami of class actions against employers who utilize biometric timekeeping or security systems. Now, the Illinois Supreme Court in McDonald v. Symphony Bronzeville Park, LLC has eliminated a defense invoked by employers facing claims under BIPA: the exclusivity of workers’ compensation.” [Full Article](#)

McDermott Will & Emery

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STATE & INTERNATIONAL COMPLIANCE

TENNESSEE



TENNESSEE EXPANDS EMPLOYEE PROTECTIONS RELATING TO COVID VACCINE MANDATES

“Governor Bill Lee has signed into law a bill that expands protections for employees who are subject to employer COVID-19 vaccine mandates. The new law supplements existing state law that prohibits private employers and other entities from compelling or taking “adverse action” against a person to compel the person to provide proof of vaccination.” [Full Article](#)

Proskauer Rose LLP

FLORIDA



FLORIDA ‘STOP WOKE’ BILL COULD IMPACT EMPLOYERS’ DIVERSITY, EQUITY, AND INCLUSION EFFORTS

“The Stop WOKE Act prohibits employers from requiring employees to participate in certain types of diversity, equity, and inclusion (DEI) training. The bill was recently passed by the Florida House and Senate; Governor Ron DeSantis is expected to sign it into law shortly.” [Full Article](#)

Morgan, Lewis & Bockius

CALIFORNIA



CALIFORNIA REPUBLIC

CALIFORNIA MAY RELAX BACKGROUND CHECK PROCESS

“Many employers undertake routine background checks as part of their hiring process. To be effective, of course, the process has to be completed in a timely manner. Yet, a recent court decision, *All of Us or None v. Hamrick*, 64 Cal. App. 5th 751 (2021), made that process appreciably more difficult by prohibiting searches of criminal court records with the use of a person’s birth date or driver’s license number.” [Full Article](#)

Proskauer Rose LLP

OREGON

STATE OF OREGON



1859

OREGON EXTENDS EXEMPTION FOR CERTAIN PAYMENTS FROM EQUAL PAY ACT

“Last year, the Oregon legislature temporarily amended Oregon’s Equal Pay Act to exempt vaccine incentives, hiring and retention bonuses from pay equity considerations. SB 1514 permits employers to continue offering vaccine incentives and hiring and retention bonuses through the end of Oregon’s COVID-19 state of emergency, plus 180 days, without running afoul of the Act. [Full Article](#)

Jackson Lewis

WISCONSIN

WISCONSIN



1848

WISCONSIN SUPREME COURT BROADENS EMPLOYERS’ SUBSTANTIAL RELATIONSHIP DEFENSE TO CONVICTION RECORD DISCRIMINATION CLAIMS

“The Wisconsin Supreme Court recently issued a significant (4-3) decision in *Cree, Inc. v. LIRC* (Cree), rejecting the view that domestic violence crimes cannot substantially relate to employment.” [Full Article](#)

Godfrey Kahn