



North Country Human Resources Association, Inc.

Society for Human Resource Management (SHRM) Affiliated Professional Chapter #0559
Serving North Country HR Managers since 1998

Website: <http://northcountryhra.org>



Newsletter – November 2009

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November Member's Meeting

- DATE:** Tuesday, November 17, 2009
- SITE:** Best Western, Watertown
- TIME:** **7:30 AM Social Networking**
7:45 AM Breakfast Buffet served
8:00 – 9:00 AM Meeting Topic
- TOPIC:** FLSA: Recent Government Initiatives and Common Mistakes Employers Make
- SPEAKER:** Subahash (Suba) Viswanathan, Esq.
Bond, Schoeneck & King, PLLC
- MENU:** Breakfast Buffet
- COST:** \$10.00 Paid Members
\$12.00 Potential Members & Guests
\$5.00 Non-Dining Members
- RSVP:** Cherie Moore – Treasurer
cherie.moore@na.manpower.com
by 4 PM Tuesday, November 10, 2009



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November's Topic... Update on the Federal Labor Standards Act and specific governmental initiatives, including: NYSDOL New York Wage Watch Project and Joint Enforcement on Employee Misclassification. Suba will also discuss common wage and hour violations, including: failure to pay all hours worked, off-clock work, meal and break time, on-call time, preparing/ finishing time as well as issues involving employee misclassification (Exempt vs Non-Exempt) and independent contractors.

Cancellations:

We will make every effort to cancel the RSVP if given reasonable notice of cancellation. If NCHRA is charged for the meal, then you are responsible to pay for the meal.

Name tags will be provided at the door to help every one get to know their fellow members. Please remember to return them before leaving.

Remember...

- Bring your business cards with you to the monthly meetings to share and network with other members.
- At each meeting NCHRA Members can enter their business card in the door prize drawing for a free meal at the next meeting.
- The "Sally Kafka Memorial Membership Drawing" held in June 2010 awards a one year paid membership to the winner. Those members with perfect attendance at the monthly meetings (Sept-June) will be eligible for the drawing.

Message From The President

Fall is definitely upon us and with it comes preparations for the holidays and winter season. Our attention to HR matters can be impacted by the demands on our time. Our focus may not be as sharp as we start our holiday shopping and our endurance may not be as strong as we fight off colds and the flu. This makes for perfect timing of the November meeting topic - FLSA: Recent Government Initiatives and Common Mistakes Employers Make. Suba Viswanathan, from Bond, Schoeneck & King, has presented to our group before and does a great job of sharing information that is clear, concise and helpful. Whether you're a seasoned human resource person or new to the field, this topic is of value to everyone.



Feedback from last month's topic tells us that you learned a lot and wished Mike Sciotti had an extra hour to share on the subject of Legal Implications of the Use of Social Networking Sites by Applicants and Employees. As we heard, it's a new frontier that will prompt some new laws and court rulings. Having Mike's recommendations on how to handle social networking in the office was of great importance. We now have some tips on how to protect ourselves from legal implications.

Keep that feedback coming in. We appreciate you taking the time to tell us what meets your needs. I look forward to seeing you on November 17th.

Please do not forget to send your RSVP to Cherie Moore no later than Tuesday, November 10, 2009 by 4 PM (cherie.moore@na.manpower.com).

Kathleen Scheible, PHR
President, North Country Human Resources Association

**Post Your HR Related Job postings
on the NCHRA Website**

Effective immediately, HR related job postings will be posted in the general area of the website (<http://northcountryhra.org/>) for a limit of 15 days. Resume will no longer be sent to members via e-mail. To get a job posting posted on the website, please contact Cherie Moore (cherie.moore@na.manpower.com). Hard copies of resumes can be provided to the membership at monthly meetings using the "sharing table".

2009-2010 Meeting Dates

January – June 2010 meeting dates for your calendar. The specific meeting times and topics will be announced soon. All meetings will be held at the Watertown Best Western.

Tuesday, January 19, 2010
Tuesday, February 23, 2010
Tuesday, March 23, 2010
Tuesday, April 20, 2010
Tuesday, May 18, 2010
Tuesday, June 8, 2010

Tentative Topics

Social Service Benefits
Wellness, Part 2
Update on National Health Plan
Background Checks/ Article 23
To be determined
4th Annual NCHRA Conference

Swine Flu Preparations

HR eNews- your connection to HR solutions!



Did You Know...

A person infected with either the seasonal flu or swine flu may be able to infect others from one day before getting sick to up to 7 days after getting sick?

Tips for Stopping the Spread of Flu Germs:

Get Vaccinated. Vaccination is the best protection against contracting the flu.

Make tissues, disinfecting wipes, and alcohol-based hand sanitizers readily available throughout the workplace to encourage healthful habits.

Remind employees to wash hands frequently with soap and water for 20 seconds or use an alcohol-based hand cleaner if soap and water are not available. Be sure to wash your hands after coughing, sneezing, or blowing your nose.

Avoid touching your nose, mouth, and eyes. Germs spread this way.

Cover your coughs and sneezes with a tissue, or cough and sneeze into your upper sleeve if you don't have a tissue. Throw the tissue in the trash after you use it.

Keep frequently touched common surfaces clean. According to flu.gov, flu viruses can survive on hard surfaces and can infect a person for up to 2 to 8 hours after being left on items such as telephones, computer keyboards, desktops, doorknobs, light switches, handrails, etc.

Discourage employees from using other employees' phones, desks, offices or other work tools and equipment.

Don't spread the flu! If you are sick with flu-like illness, stay home. CDC recommends that sick workers stay home if they are exhibiting flu symptoms until at least 24 hours after they are free of fever without the use of fever-reducing medicines.

Consider ways to allow sick employees to stay home without fear of losing their jobs. Review your sick leave policy and adjust, if necessary, to allow and even encourage, employees to stay at home if they experience flu-like symptoms.

Develop flexible leave policies to allow employees to stay home to care for sick family members or for children, if schools dismiss students or childcare programs close.

Avoid unnecessary close contact with co-workers and customers. Employees should avoid shaking hands and always wash their hands after contact with others. Even if employees wear gloves, they should wash their hands upon removal of the gloves in case their hand(s) became contaminated during the removal process.

Communicate with your cleaning services about additional steps they may be able to take to further sanitize your worksites.

Visit www.flu.gov for more resources, tips, posters, etc. If you need assistance in developing a flu plan or have questions relating to paid time off benefits during flu season, contact HR One's Human Resource Hot Line at 1.800.457.8829.

This HR eNews is not intended to render legal advice but is meant for general informational purposes only.

CLICK HERE www.peopletopayroll.com FOR A DIRECT LINK TO OUR WEB SITE

CDC Guidance: Know the Difference between a Cold and the Flu

What is the difference between a cold and the flu?

The flu and the common cold are both respiratory illnesses but they are caused by different viruses. Because these two types of illnesses have similar flu-like symptoms, it can be difficult to tell the difference between them based on symptoms alone. In general, the flu is worse than the common cold, and symptoms such as fever, body

aches, extreme tiredness, and dry cough are more common and intense. Colds are usually milder than the flu. People with colds are more likely to have a runny or stuffy nose. Colds generally do not result in serious health problems, such as pneumonia, bacterial infections, or hospitalizations.

How can you tell the difference between a cold and the flu?

Because colds and flu share many symptoms, it can be difficult (or even impossible) to tell the difference between them based on symptoms alone. Special tests that usually must be done within the first few days of illness can be carried out, when needed to tell if a person has the flu.

What are the symptoms of the flu versus the symptoms of a cold?

In general, the flu is worse than the common cold, and symptoms such as fever, body aches, extreme tiredness, and dry cough are more common and intense. Colds are usually milder than the flu. People with colds are more likely to have a runny or stuffy nose. Colds generally do not result in serious health problems, such as pneumonia, bacterial infections, or hospitalizations.

<http://www.cdc.gov/flu/about/qa/coldflu.htm>

Genetic Information Nondiscrimination Act (GINA)

Title II of GINA - Employment Provisions: The Equal Employment Opportunity Commission (EEOC) has approved a proposed final rule to implement the employment title of the Genetic Information Nondiscrimination Act (GINA). The proposed regulation notes that *covered entities will be required to post notices in conspicuous places* describing GINA's applicable provisions.

Download the new EEO poster by clicking on the following link:
EEO Poster <<http://amtekhr.com/pdf/380.pdf>>



BSK and MACNY Breakfast Series

2009-2010 HR Breakfast Series

The Breakfast Series Seminars, co-sponsored by BS&K and MACNY, is designed to address current, important issues and provides updates and insight on a variety of important HR topics.

All Syracuse presentations will take place at MACNY headquarters (see below). Please see reverse for dates and location of our "On The Road HR Series" in Utica.

| <u>Date</u> | <u>Topic</u> |
|-------------------|---|
| October 20, 2009 | The Changing Regulatory Environment – What to Expect from the NLRB, OSHA, DOL, SDHR and State DOL |
| November 17, 2009 | Harassment and Diversity – Preventing Discrimination in the Workplace |
| February 16, 2010 | Lilly Ledbetter Fair Pay Act and Electronic Record Keeping – Are You in Compliance? |
| March 16, 2010 | Contingent Workers – Avoiding Pitfalls and Legal Liability |
| May 18, 2010 | Roundtable Discussion – Discipline and Discharge and ADA / FMLA Scenarios |



All Breakfast Series Seminars have been approved for 1.5 general recertification credit hours toward PHR, SPHR and GPHR recertification through the HR Certification Institute. For more information about certification or recertification, please visit the HRCI homepage at www.hrci.org. The use of this seal is not an endorsement by HR Certification Institute of the quality of the program. It means that this program has met HR Certification Institute's criteria to be pre-approved for recertification credit.

Registration and Breakfast: 7:30 a.m. to 8:00 a.m.; Program: 8:00 a.m. to 9:30 a.m.

Briefings held at MACNY Headquarters, One Webster's Landing, Syracuse, NY

Cost for each HR Breakfast Series Session is \$25 for BS&K Clients and MACNY Members

\$35 for Non-Clients and Non-Members (includes breakfast and handouts)

(Make checks payable to MACNY)

See reverse side for registration information



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On The Road HR Series

Location

All sessions will be held at the Radisson Hotel-Utica located at 200 Genesee Street, Utica, NY 13502

Date

Topic

November 10, 2009 Harassment and Diversity – Preventing Discrimination in the Workplace

February 23, 2010 Lilly Ledbetter Fair Pay Act and Electronic Record Keeping – Are You in Compliance?

May 25, 2010 Roundtable Discussion – Discipline and Discharge and ADA / FMLA Scenarios

Fax-Back Registration Form

Fax your registration to Bill at MACNY: Fax 315-474-0524; Phone 315-474-4201, ext. 16

Please indicate if you are a BS&K Client or MACNY Member

Participant _____ Contact Name _____

Address _____

Telephone _____ Fax _____ E-mail _____

Seminar _____ Date _____

Seminar _____ Date _____

Seminar _____ Date _____

Seminar _____ Date _____

If you are unable to honor your registration, please provide 48 hour cancellation notification.
Otherwise, we will be charged by the venue and have to pass along the cost to you.

BSK, PLLC Labor & Employment Law Information Memo



Electronic Dispatch

Labor & Employment Law Information Memo

September 2009

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NEW YORK EMPLOYERS CONFRONT A HOST OF NEW LEGISLATIVE REQUIREMENTS

While the terms "stalemate" and "dysfunction" were most often used to describe the recent legislative session in Albany, several important pieces of employment legislation were passed. These new laws, which include amendments to the Labor Law and the Human Rights Law, will have an impact on virtually all New York employers.

NY Labor Law Amendments

1. *Advanced Written Notice of Pay Rates*

Section 195 of the New York Labor Law has been amended to require employers to provide written notice of the employee's rate of pay, overtime rate (for non-exempt employees), and regular pay date. These new requirements apply to employees hired on or after October 26, 2009, which is the effective date of the amendment. The stated purpose of the new law is to assist employees in determining their overtime pay and to ensure that employees understand the basis for, and timing of, the payment of their wages.

The new law also requires employers to obtain a written acknowledgement from each newly-hired employee that he or she has received the required pay information. The acknowledgement must conform to standards established by the New York Commissioner of Labor. The Commissioner has not yet issued those standards.

In addition to this new notice requirement, the New York Labor Law already imposes various notification requirements on New York employers, including:

- Prior to this statutory amendment, New York employers were required to provide all employees, at the time of hire, with notice of their regular wage rates and pay date. No individual written acknowledgement from the employee was required.
- The Department of Labor has consistently required employers to provide notice of any change in pay rates or pay dates in advance of the start of the payroll period in which the change would be effective.
- The terms of employment between an employer and a commissioned salesperson must be in writing and signed by both parties. The agreement must include a description of how wages, salary, drawing accounts, commissions, and all other monies earned and payable will be calculated and paid.
- Employees must be notified in writing or by public posting of the employer's policy on sick leave, vacation, personal leave, holidays, and work hours.
- In the event of employment termination, the employer must notify the employee of the date of termination and the exact date on which the employee's benefits end. This notice must be in writing and provided within 5 working days after termination.

2. *More Vigorous Enforcement Provisions*

On August 26, 2009, Governor Paterson signed another amendment to the New York Labor Law, which is designed to deter employers from violating the law.

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First, Sections 198 and 663 of the Labor Law were amended to authorize the Commissioner of Labor, in court actions and administrative proceedings to collect wage underpayments, to assess, against an employer, liquidated damages equal to 25% of the amount of the underpayments, unless the employer can demonstrate that it had a "good faith" belief that it was complying with the law. Similarly, in a court action commenced by an employee, liquidated damages are available, unless the employer establishes its good faith defense. Prior to the amendment, the employee had the burden to prove that the underpayment was "willful" in order to collect liquidated damages. By shifting the burden of proof from the employee to the employer, the amendment is designed to make it easier for the Commissioner to impose, and the employees to recover, liquidated damages. The statute already authorizes a court to award attorneys' fees to a prevailing employee.

Second, the new legislation expands the protections against retaliation. Section 215 of the Labor Law, which prohibits discrimination or retaliation against employees who complain about wage underpayments and other labor law violations, was amended to increase minimum civil penalties for illegal retaliation from \$200 to \$1,000, and maximum penalties from \$2,000 to \$10,000. Further, the Commissioner has new authority to order reimbursement for lost compensation and to impose liability for retaliation on partnerships and limited liability companies.

The amendment also expands the scope of prohibited retaliation to protect employees who: (a) provide information to the Commissioner or his or her representative; (b) exercise rights afforded under the labor laws; and (c) receive a favorable determination from the Commissioner against their employer. It should be noted that state employees and employees of any municipal subdivisions or departments of the State are now specifically excluded from protection under this section of the Labor Law.

The amendments to Labor Law Sections 198, 215, and 663 take effect on November 24, 2009 and apply to violations occurring on or after that date.

New York Human Rights Law Amendments

1. Civil Penalties in Employment Discrimination Matters

Effective July 6, 2009, the New York Human Rights Law was amended to provide for civil fines and penalties, payable to the State, of up to \$50,000 for unlawful acts of employment discrimination, and up to \$100,000 for willful, wanton, or malicious discrimination. Previously, the imposition of civil fines was limited to cases of housing discrimination. With the enactment of the new law, these penalties may now be assessed in all cases of employment discrimination, which account for approximately 80% of the cases adjudicated by the New York Division of Human Rights (the "Division"). Under the legislation, an employer with fewer than 50 employees may be allowed to pay the civil fines and penalties in installments.

The Division has described the purpose of the amendment as follows:

[This amendment will] greatly advance the Division's mission to exercise the police power of the State for the protection of the public welfare, health and peace of the people of this State, and in fulfillment of the provision of the constitution of this State concerning civil rights. N.Y. Exec. Law § 290.1. The fines imposed will further the goal of equal opportunity in New York State by acting to deter and reduce discrimination on the basis of race, color, creed, national origin, sex, age, disability, sexual orientation, marital status, military status, and other protected categories.

The new civil fines do not replace or limit the other relief that may be awarded to a prevailing complainant in a Division proceeding. The statute already provides for affirmative relief from the employer (*e.g.*, an order that the individual be hired, promoted or reinstated by the employer), backpay, and other compensatory damages (*e.g.*, emotional distress damages). Punitive damages and attorneys' fees are not currently payable to a prevailing complainant in a Division administrative proceeding. These remedies, however, may be available to a prevailing plaintiff in a court action. Further, there is pending legislation in New York that would also allow individuals to recover punitive damages and reasonable attorneys' fees in a Division proceeding.

There is presently little guidance on how the new civil penalties would be applied by the Division. The Division promises future guidelines. It may be that the existing standards applied in housing discrimination cases will be considered relevant. In housing

discrimination cases, the factors that determine if civil fines and penalties are appropriate are: 1) whether the respondent previously committed unlawful housing discrimination; 2) the respondent's financial resources; 3) the degree of respondent's culpability; and 4) the goal of deterrence.

To avoid the risk of potential civil fines, employers should renew their efforts to:

- maintain and enforce a comprehensive anti-discrimination policy;
- distribute the policy to all employees;
- provide an effective complaint procedure; and
- train all employees in the law and the employer's policies.

2. *Victims of Domestic Abuse*

Finally, effective July 7, 2009, the Human Rights Law was expanded to prohibit employers from discriminating against an individual because he or she is an actual, or perceived, victim of domestic violence or stalking. As a result, the New York Human Rights Law now prohibits employers from discriminating in any aspect of employment against individuals on the basis of "age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, or domestic violence victim status."

According to the sponsor of the legislation, this amendment was necessary because many women who are abused lack financial resources for themselves and their children. Escaping an abusive relationship often depends on financial independence, which means finding and keeping a job. Further, according to the legislative sponsors, it is not unusual for a victim of domestic violence to be terminated from her job or demoted because she needs time off or flexible hours as a protective measure. By making it unlawful for an employer to discriminate against victims of domestic violence, the goal of the legislation is to help ensure the safety and the economic viability of these victims.

Employers should also be aware that another existing New York law provides additional protection to victims of domestic violence and other crimes. Section 215.14 of the New York Penal Law requires employers to provide employees with an unpaid leave to appear as a witness, consult with the district attorney, or exercise the employee's statutory rights as the victim of, or witness to, a crime. Obviously, a victim of domestic violence may need one or more of these types of leave. To use this leave, the employee may provide notice of the need for leave at any time prior to the actual day of leave. Employers are permitted to ask the party who sought the attendance or testimony of the employee to provide verification of the employee's service. Penalizing or discharging an employee for absences by reason of a required appearance as a witness in a criminal proceeding, or consultation with the district attorney, or exercise of his or her rights as provided under the law constitutes a class B misdemeanor.

If you have questions about this Information Memo, please contact:

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BSK, PLLC Labor & Employment Law Information Memo



Electronic Dispatch

Employee Benefits Law Information Memo

September 2009

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HIPAA SECURITY BREACH NOTIFICATION RULES REQUIRE IMMEDIATE ACTION BY COVERED ENTITIES AND BUSINESS ASSOCIATES

Among other things, the Health Insurance Portability and Accountability Act ("HIPAA") requires health care plans, third party health plan administrators, pharmacy benefit managers, health care providers, and other so-called "covered entities" and "business associates" to maintain the confidentiality and security of an individual's "protected health information" or "PHI." The Health Information Technology for Economic and Clinical Health Act ("Act"), enacted earlier this year as part of the economic stimulus package, introduced substantial changes to the HIPAA privacy and security rules, including the addition of new notification requirements that may apply in the event that the privacy or security of PHI is compromised.

Under the Act, if the confidentiality or security of PHI is compromised by a "covered entity," notification of the "breach" may have to be provided to (i) affected individuals, (ii) the United States Department of Health and Human Services ("HHS"), and (iii) in certain cases, the media. If a "business associate" compromises the confidentiality or security of PHI, the business associate may be required to notify the covered entity of the breach.

On August 24, 2009, HHS issued interim final rules ("Final Rules") that clarify the breach notification requirements. Although the Final Rules are effective September 23, 2009, and although HHS expects covered entities to comply as of that date, sanctions will not be imposed for noncompliance that occurs prior to February 23, 2010. Until then, HHS has indicated that it will take appropriate corrective action to help covered entities achieve compliance. Covered entities and business associates should not delay implementing appropriate measures to comply with the requirements of the Final Rules, despite the delayed enforcement date.

Covered Entities, Business Associates and PHI Defined

For purposes of the Final Rules, a "covered entity" is defined as a health plan, health plan clearinghouse, or health care provider that transmits any health information electronically in connection with a covered transaction (such as submitting health care claims to a health plan). A "business associate" is defined as a person who performs functions on behalf of, or certain services for, a covered entity that involve the use or disclosure of individually identifiable health information (e.g., third party administrators or pharmacy benefit managers for health plans). PHI is defined as individually identifiable health information held or transmitted by HIPAA covered entities and business associates, subject to certain limited exceptions.

When Does a Breach Occur?

The Final Rules define a breach to mean the unauthorized acquisition, access, use, or disclosure of unsecured PHI which compromises the security or privacy of such information. The security or privacy of PHI is considered to be "compromised" under the Final Rules if its disclosure poses a significant risk of financial, reputational, or other harm to the affected individual.

HHS previously issued guidance regarding when PHI is considered "secure," and therefore not subject to the breach notification requirements. Generally, the guidance stated PHI is not considered secure unless it is either destroyed or encrypted in accordance with National Institute of Standards and Technology guidelines.

Under the Final Rules, a breach does not include certain unintended and inadvertent disclosures of unsecured PHI, nor disclosures where the recipient would not have been able to retain the disclosed information (e.g., instances where unsecured PHI is mailed to the wrong individual and the envelope is returned unopened).

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What are the Notification Requirements With Respect to Individuals?

General Requirement: After the discovery of a breach of unsecured PHI, the Final Rules require covered entities to notify each individual whose unsecured PHI has been, or is reasonably believed by the covered entity to have been, accessed, acquired, used or disclosed as a result of such breach. Breaches are treated as discovered as of the first day that the covered entity knows, or reasonably should have known, of the breach.

Timing of Notice: The notification must be provided without “unreasonable delay” (i.e., as soon as reasonably possible) and in no event later than 60 calendar days after the breach is first discovered by the covered entity.

Content of Notice: The notification must include, to the extent possible: (1) a brief description of the breach, including the date of the breach and the date of the discovery of the breach; (2) a description of the types of unsecured PHI involved in the breach; (3) steps individuals should take to protect themselves from potential harm resulting from the breach; (4) a brief description of the actions taken by the covered entity to investigate the breach, to mitigate potential harm, and to protect against further breaches; and (5) steps that can be taken to obtain additional information.

Method of Notice: The notice must be provided by first-class mail to the individual at his or her last known address, or by electronic mail, if such method was previously agreed to by the individual. If the covered entity knows that the individual is deceased, written notice may be provided to the address of the next of kin or the individual’s personal representative.

Substitute Notice: If the covered entity has insufficient or out-of-date contact information with respect to the covered individual, the covered entity must provide notice through alternative means. If insufficient or out-of-date information is available for fewer than 10 individuals, substitute notice may be provided by an alternative form of written notice, telephone, or other means. If insufficient or out-of-date information is available for 10 or more individuals, the covered entity must either post a conspicuous notice of the breach on the web site of the covered entity involved, or provide conspicuous notice in local major print or broadcast media. Such notice must include a toll-free telephone number where an individual can learn whether the individual’s unsecured PHI was included in the breach (the number must remain active for at least 90 days).

When is Media Notification Required?

In the case of breaches involving more than 500 residents of a State or jurisdiction, the covered entity must notify “prominent media outlets” of the State or jurisdiction. Such notice must be provided without unreasonable delay, and no later than 60 calendar days of the discovery of the breach, and must include the same content as described above with respect to the notification of individuals.

When is Notice Required to be Provided to HHS?

Breaches Involving 500 or more Individuals: For breaches involving 500 or more individuals, a covered entity must notify HHS of the breach at the same time notice is provided to the affected individuals as described above, and in the manner specified on the HHS web site (www.hhs.gov).

Breaches Involving Less than 500 Individuals: For breaches involving less than 500 individuals, a covered entity is required to maintain a log of such breaches and submit it to HHS on an annual basis. The log must be filed with HHS within 60 days after the end of the calendar year, and in the manner specified on the HHS web site (www.hhs.gov).

What Notification Requirements Apply to Business Associates?

Upon discovery of a breach, business associates are required to notify the covered entity of the breach without unreasonable delay, and no later than 60 calendar days after discovery of the breach. Such notice must include, to the extent possible, the identification of each affected individual as well as any other information that the covered entity is required to provide to the individual pursuant to the covered entity’s notice obligations.

As an exception to the notification requirements described above, the Final Rules allow covered entities to delay the notification of a breach if requested by a law enforcement official.

Recommended Action

The Final Rules require covered entities and business associates to take immediate steps to ensure compliance. Such steps include, among other things: (1) establishing internal procedures to determine when breaches of unsecured PHI have occurred and ensure

compliance with the notification requirements; (2) creating and maintaining a breach log to track any breaches so that they are properly reported to HHS; (3) training appropriate personnel on the notification requirements; (4) revising business associate agreements to account for the new requirements; and (5) modifying existing HIPAA policies and procedures and the notices of privacy practices to comply with the new notification requirements.

If you have any questions about this memorandum, please contact John C. Godsoe in our Buffalo office (716-566-2850, jgodsoe@bsk.com) or any of the other members of our Employee Benefits and Executive Compensation Practice Group listed below.

In Central New York, call 315-218-8000 or e-mail:

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|------------------|--------------------|
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