**2012 Miscellaneous New California and Federal Requirements**

**Discrimination Based On “Genetic Information”**

During this active legislative session, the California Legislature saw fit to add genetic information to the list of protected categories under the Fair Employment and Housing Act (“FEHA”). SB 559 ([pdf](http://leginfo.ca.gov/pub/11-12/bill/sen/sb_0551-0600/sb_559_bill_20110906_chaptered.pdf)), discussed further on Proskauer’s California employment law [blog](http://calemploymentlawupdate.proskauer.com/2011/09/articles/discrimination/new-california-law-prohibits-discrimination-based-on-genetic-information/), defines “genetic information” as: the individual employee’s genetic tests, the genetic tests of the employee’s family members, and the “manifestation of a disease or disorder” in the employee’s family members. Under the new law, discrimination in hiring or employment based on any of these characteristics is unlawful.

**Medical Debts Exempt From Wage Garnishment**

Current law provides that an employer must withhold from an employee’s wages the amount stated on an earnings withholding order, up to the portion of the earnings the debtor proves is necessary to support himself or his family. AB 1388 adds an exemption from wage garnishment for debt that is incurred “for the common necessaries of life furnished to the judgment debtor” or his or her family, including, e.g., hospital services and other medical debts.

**Coverage Of California Domestic Partners Under Health Insurance Plans Issued To Out-Of-State Employers**

SB 757 ([pdf](http://leginfo.ca.gov/pub/11-12/bill/sen/sb_0751-0800/sb_757_bill_20111009_chaptered.pdf)) expands the reach of the California Insurance Equality Act, which currently requires insurance companies to provide the same coverage for registered domestic partners as for spouses. Existing law provides that a policy marketed, issued, or delivered to a California resident is subject to the nondiscrimination provisions of the California Insurance Code; however, SB 757 closes the gap that has, for the past several years, allowed out-of-state policies issued to employers who maintain their principal place of business and a majority of their employees outside of the state to limit benefits to spouses. Under the new law, every group health insurance policy provided to a California resident, regardless of the situs of the contract, must offer equal coverage for spouses and registered domestic partners.

**Minors In The Entertainment Industry**

This new law establishes a temporary work permit program for minors in the entertainment industry. Under current law, the Labor Commissioner must furnish his or her written consent in order for a minor under the age of 16 to participate in certain projects. AB 1401 ([pdf](http://leginfo.ca.gov/pub/11-12/bill/asm/ab_1401-1450/ab_1401_bill_20111007_chaptered.pdf)) creates a program to be administered by the Labor Commissioner that allows the parent or guardian of a minor performer to obtain a temporary permit for the minor’s employment under certain circumstances.

**New Time Limit For Acceptance Of Conditional New Trial Orders**

AB 1403 ([pdf](http://leginfo.ca.gov/pub/11-12/bill/asm/ab_1401-1450/ab_1403_bill_20111002_chaptered.pdf)) amends the California statute governing by setting a deadline for parties to accept or reject a judge’s proposed modified award of damages. Under current law, a party can request a new trial on grounds that the jury returned an inadequate or excessive damage award; the judge may order a new trial but condition the order on acceptance or rejection of a modified award. Pursuant to AB 1403, in the absence of a deadline stated in the court’s conditional order, the default deadline for parties to respond will now be 30 days from the date the order is served by the court’s clerk. A party’s failure to respond by the deadline is deemed a rejection of the offer, which will trigger a new trial on the issue of damages.

AB 1403 also prohibits trial judges from establishing absolute or blanket time limits for voir dire and provides that counsel for each party should be given reasonable time to evaluate any written questionnaire responses from prospective jurors before oral questioning begins. Attorneys also will be permitted to deliver brief opening statements. Finally, “to help facilitate the jury selection process,” under the new law judges “should” provide lists of potential jurors, both in alphabetical order and in the order in which they will be called.

**W-2 reporting requirements**

Employers with 250 or more employees in 2012 [will be required](http://hrmorning.com/from-the-irs-new-w-2-reporting-rules/) to report the cost of employee’s healthcare coverage on workers’ 2013 W-2s.

Small employers can wait another year. Those issuing fewer than 250 W-2s aren’t required to obey the reporting requirements until 2013 W-2s are issued (in 2014). But the IRS has said the reporting requirement for small employers could be pushed back even further.

The requirement to report the cost of health coverage on employees’ W-2s has caused a lot of confusion among workers. One thing you’ll want to tell them: The W-2 reporting requirements do not make workers’ healthcare benefits taxable — they’re simply meant to let employees know how much their coverage costs.

**401(k) fee disclosure rules**

On Jan. 1, 2012, the retirement plan [fee disclosure regs](http://www.hrmorning.com/new-retirement-plan-regs-what-youve-got-to-do-in-2011/) go into effect. But Uncle Sam has given employers 120 days after that date to comply — making the actual compliance deadline April 30, 2012.

Essentially, the rules require plan sponsors to disclose all fees and expenses to participants of 401(k)-type plans.

The feds hope that’ll make the plans easier for employees to understand so they can make more informed decisions about where and how to invest their money.

**End of rollovers to HSAs**

If you currently allow employees to transfer the balance of an FSA or HRA into an HSA, they only have until Dec. 31, 2011 to do so. Beginning Jan. 1, 2012 that practice [is prohibited](http://benefitu.net/2011/05/december-31st-2011-deadline-approaching-hra-to-hsa-conversion/).

**New federal health care reform guidance/rules**

Two provisions worth paying particular attention to:

* **Summary of Benefits and Coverage.** The healthcare reform law requires all health plans — grandfathered or not — to provide plan participants with a [summary of their benefits](http://hrmorning.com/new-rules-for-health-plan-descriptions-8-things-you-need-to-know/) and coverage. Employers have been given a reprieve from having to comply with this requirement. The deadline was March 23, 2012, but it has been pushed back indefinitely. The feds have said a new deadline will be determined in a final rule but gave no indication when the rule would be issued.
* **Nondiscrimination rules.** [These rules](http://hrmorning.com/feds-delay-enforcement-of-health-plan-nondiscrimination-rules/) will apply to all health plans that are not grandfathered. They prohibit employers from offering current or former execs coverage that isn’t available to rank-and-file employees. The feds delayed the implementation of this provision in late 2010, but guidance is expected to come down soon.