

BUSINESS IN 2025

WEEKLY WEBINAR SERIES



Your Host



Gabriel S. Oberfield

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New York, NY

TODAY'S AGENDA

Gabe Oberfield – (12:00PM-12:05PM)

- Welcome and Agenda

Caroline Westover – (12:05PM-12:15PM)

- Recent Immigration Updates of Potential Interest to Employers

Patrick Caldarelli – (12:15PM-12:20PM)

- What's in the Governor's Package of Bills Concerning Worker and Labor Protections?

Alyssa Christian – (12:20PM-12:25PM)

- Are There Changes Coming in the Non-Compete Space?

Gabe Oberfield – (12:20PM-12:25PM)

- NYS Cybersecurity Requirements for Hospitals Creeping Up

G. Oberfield – (12:30PM)

- Questions / Wrap Up

Recent Immigration Updates of Potential Interest to Employers



Caroline M. Westover

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Recent Immigration Updates of Potential Interest to Employers

1. Updated guidance from the U.S. Department of State regarding non-immigrant visa processing;
2. Temporary Protected Status (TPS) for Venezuelans and the potential impact on work authorization eligibility;
3. USCIS to modernize its fee payment system;
4. USCIS expands consideration of Anti-Americanism in requests for immigration benefit; and
5. ICE/DHS workplace enforcement activity in Central New York.

What's In the Governor's Package of Bills Concerning Worker and Labor Protections?



Patrick J. Caldarelli

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The Recent Labor Law Bills

- On September 5, 2025, Governor Hochul signed a series of bills amending several New York State Labor laws.
- Each law signed on September 5, 2025 is effective immediately.
- The laws include a dramatic increase in the Public Employment Relation Board's jurisdiction and increased worker protections, mostly for public sector employees.

Legislation S.8034A/A8590A

- The statute amends Section 715 of the New York Labor Relations Act expanding the Public Employment Relations Board's (PERB) jurisdiction over private sector labor disputes.
- PERB does not have authority “where the National Labor Relations Board successfully asserts jurisdiction over any employer, employees, trades, or industries pursuant to an order by [a] federal district court.” (emphasis added).
- PERB is also authorized “upon application and verification” to certify the exclusive bargaining representatives of “any bargaining unit previously certified by another state or federal agency.”
- “All existing terms and conditions of employment between a certified exclusive bargaining representative and an employer shall remain in full force and effect through the board’s verification process.”
- Constitutional challenge by the General Counsel is likely imminent.
 - “It’s a matter that needs immediate action.”
 - “It’s not a minor incursion. This is a throwdown of significant weight.”

Legislation S.5254/A.6612

- Amends Section 27-b of the Labor Law which creates the duty for public employers to develop and implement programs to prevent workplace violence.
- Protects public employees from a wage reduction due to their involvement or participation in the investigation of a violation of a workplace violence protection program.
- “No employee who accompanies the commissioner on an inspection, participates in a risk evaluation and determination inspection, or participates in an annual program review shall suffer any reduction in wages.”

Legislation A.2730A

- Amends Labor Law Section 224-d which creates wage requirements for certain renewable energy systems.
- Contractors and subcontractors performing construction work for covered renewable energy systems are required to have apprenticeship agreements.
- “[Any] covered renewable energy system shall require all contractors and subcontractors performing construction work to use apprenticeship agreements, as defined by article twenty-three of this chapter, and any thermal energy network covered by this section shall additionally require [all] such contractors and subcontractors [performing construction work] to use [apprenticeship agreements, as defined by article twenty-three of this chapter, with] pre-apprenticeship direct entry providers registered with the department.”
- Section 816. Apprenticeship agreements: “An individual written agreement between an employer and an apprentice, or (2) a written agreement between an employer or an association of employers, and an organization of employees describing conditions of employment for apprentices or (3) a written statement describing conditions of employment for apprentices in a plant or plants where there is no bona fide employee organization.

Legislation S.12/A.779

- Amends Civil Service Law Section 80 which governs suspension or demotion following layoffs.
- Increases protections for public unions during times of suspensions and workforce layoffs essentially creating a floor for certain protections.
- “... nothing contained in this section shall modify, replace or supersede any provision of a collective bargaining agreement that provides for greater rights than required by this section.”

Are there Changes Coming in the Non-Compete Space?



Alyssa M. Christian

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FTC's Non-Compete Rule

- 16 C.F.R. pt. 910
- Bans most non-compete clauses
- Estimated 30 million American workers are currently subject to one.
- Published May 7, 2024
- Nationwide injunction issued

Updates on the FTC's Non-Compete Rule

- Appointment of Andrew N. Ferguson
- September 5, 2025: FTC withdrew its appeal in *Ryan, LLC v. FTC*
- Agrees that the rule is overbroad and beyond FTC's scope of authority

What does this mean for the future of non-compete clauses?

- Non-competes are still subject to oversight
- Section 5 the FTC Act and antitrust laws
- State Regulations
- Mere existence ≠ illegality
- Chairman Andrew N. Ferguson:

“We choose to protect American workers by doing what Congress told us to do—patrolling our markets for specific anticompetitive conduct that hurts American consumers and workers, and taking bad actors to court.”

Recent Non-Compete Enforcement Efforts

- September 4, 2025: FTC takes actions
 - orders nation's largest pet cremation business to stop enforcing restrictive noncompete agreements that bind nearly 1,800 workers
 - must provide notice to employees that they are no longer subject to a noncompete agreement
- September 10, 2025: FTC issues Noncompete Warning Letters
 - Large healthcare employers and staffing firms
 - Protect vital roles like nurses, physicians, and other medical professionals
 - Instructs them to conduct a comprehensive review of their employment agreements to ensure they are appropriately tailored and comply with the law.

Summary

- The injunction against the FTC Noncompete rule will remain in place.
- Non-compete clauses remain subject to state regulations
- Clauses need to be narrowly tailored to the circumstances
- Reach out if you would like us to review any existing or proposed non-compete language

NYS Cybersecurity Requirements for Hospitals Creeping Up



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Update on Hospital Cybersecurity Requirements in NYS

New York State Dept. of Health Notice of Adoption issued on October 2, 2024

New Section 405.46 of Title 10 (Health) regulations • Hospitals must have a cybersecurity program

Most compliance will be slated for one year from adoption – 10/2/25

- Concerns mounting re:
 - Viability of timely implementation
 - Ostensibly unfunded mandate
 - Flow-down requirements on vendors
 - Scope of data to be protected (including broadly defined 'business' data)

Notwithstanding – identified cyber incidents must be reported to DOH within 72 hours of discovery – immediately binding

Does not usurp / supersede requirements under HIPAA, SHIELD, etc.

NYS Register/October 2, 2024

Rule Making Activities

Possible rural concerns are not distinct from the concerns of other stakeholders, and stakeholders who participated in the discussions represent stakeholders in rural areas as well as other demographic and geographic areas of the State. NEDOH, the New York Farm Bureau, the Long Island Farm Bureau, local Soil and Water Conservation Districts, various county health departments, Environmental Justice communities and the general public were notified in advance of an informational webinar on the proposed revisions that was held on October 27, 2022. The Notice of Proposed Rule Making will be published in the State Register and in the Environmental Notice Bulletin, and at least one virtual public hearing will be held.

Job Impact Statement

It is apparent from the nature and purpose of the proposed rules, as set forth in the Summary of Expenses Table, that they will not have a substantial adverse impact on jobs and employment opportunities. The proposed rules will have no positive or negative impact on jobs and employment opportunities at all, except that the proposed rules are expected to result in a slight decrease in the need for consulting services that is not substantial for facilities that obtain pumping unit waivers or that qualify for a permit exemption based upon the rule making revisions. The Department made this determination based on an analysis of the consulting services that would be needed after the rule making compared to those services currently needed.

Department of Health

NOTICE OF ADOPTION

Hospital Cybersecurity Requirements

L.D. No. 1017-49-23-00001-A

Filing No. 771

Filing Date: 2024-09-13

Effective Date: 2024-10-02

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: Addition of section 405.46 to Title 10 NYCRR.

Statutory authority: Public Health Law, section 2801

Subject: Hospital Cybersecurity Requirements.

Purpose: To create cybersecurity program requirements at all article 28 regulated facilities.

Substance of final rule: The proposed regulation would create a new section 405.46 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York, to create cybersecurity requirements for all hospital facilities.

Section 405.46(a) identifies all general hospitals in New York State as subject to the regulations.

Section 405.46(b) defines certain terms and language for purposes of the section.

Section 405.46(c) establishes the requirements for hospitals to have a cybersecurity program and defines protocols, procedures, and core functions of such program.

Section 405.46(d) defines the cybersecurity policies that general hospitals will need to create and the topics that should be considered after a risk assessment has been performed.

Section 405.46(e) requires general hospitals to designate a Chief Information Security Officer.

Section 405.46(f) sets forth the requirements for testing and vulnerability of a general hospital's cybersecurity program.

Section 405.46(g) outlines the audit trails and records maintenance and retention requirements of a general hospital's cybersecurity program.

Section 405.46(h) sets forth the requirements for cybersecurity risk assessments and the considerations for policies and procedures relative to those risk assessments.

Section 405.46(i) sets forth the requirements for cybersecurity personnel general hospitals must utilize.

Section 405.46(j) sets forth the policies for third party service providers of cybersecurity programs.

Section 405.46(k) sets forth the requirements for identity and access management.

Section 405.46(l) sets forth the requirements for training and monitoring of the cybersecurity program.

Section 405.46(m) defines the requirements for an incident response plan in the event of a cybersecurity incident.

Section 405.46(n) defines the reporting requirements for a general hospital during a cybersecurity incident.

Section 405.46(o) refers to confidentiality and the applicability of State and federal statutes.

Section 405.46(p) provides general hospitals one (1) year from the date of adoption to comply with the new regulatory requirements, except that general hospitals must immediately begin reporting to the Department as required by subdivision (n) of this section.

Section 405.46(q) states that if any provisions of the section are found to be invalid, it shall not affect or impair the validity of other provisions of the section.

Final rule as compared with last published rule: Nonsubstantive changes were made in section 405.46(b)(7), (8), (10)(iv), (p)(2), (h)(1), (h)(3) and (q)(1).

Revised rule making(s) were previously published in the State Register on May 15, 2024.

Text of rule and any required statements and analyses may be obtained from: Katherine Corrado, DOH, Bureau of Program Control, Reg. Affairs Unit, Room 2436, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regaffairs@health.ny.gov

Revised Regulatory Impact Statement

Statutory Authority: Public Health Law (PHL) § 2801(2)(a) authorizes the Public Health and Health Planning Council (PHHPC) to adopt and amend rules and regulations, subject to the approval of the Commissioner of Health (Commissioner), to implement PHL Article 28 and establish minimum standards for health care facilities, including general hospitals.

Legislative Objective: The legislative objective of PHL Article 28 includes the protection of the health of the residents of the State by promoting the efficient provision and proper utilization of high-quality health services at a reasonable cost.

These regulations fulfill this legislative objective by ensuring that general hospitals within New York State implement minimum cybersecurity controls to safeguard protected health information (PHI) and personally identifying information (PII) from being publicly disclosed or used for identity theft.

Needs and Benefits: The healthcare industry is one of the most targeted communities for cybersecurity scams and breaches due to the significant amount of sensitive and financially lucrative information healthcare facilities collect. Currently in New York State there are no cybersecurity requirements for the safeguarding and security of patients' protected health information (PHI) and personally identifying information (PII). As a result, New Yorkers seeking medical care have no guaranteed minimum levels of protection of their information. As a result of this, there have been several high profile cybersecurity breaches at facilities across the state which have resulted in not only a loss of patient financial and health data, but in some cases has also delayed care.

Additionally, cybersecurity events at hospitals can have significant, far-reaching, and long-term impacts to the provision of patient care and operation of the facility. Governor Hochul has been focusing on cybersecurity and ensuring that New Yorkers data stays safe no matter where they go.

The promulgation and implementation of cybersecurity focused regulations supports this initiative. These regulations will ensure all hospitals develop, implement, and maintain minimum cybersecurity standards, including cybersecurity staffing, network monitoring and testing, policy and program development, employee training and remediation, incident response, appropriate reporting protocols and records retention.

There will be multiple benefits to the adoption of these regulations. Given the significant differences in preparedness statewide against cybersecurity attacks, these regulations will ensure hospitals are required to maintain a minimum level of readiness to prepare for, respond to, and quickly recover from cybersecurity incidents.

Costs: Costs to Regulated Parties: The costs associated with the implementation by regulated facilities will vary significantly due to the varying levels of cybersecurity programs and policies hospitals currently have in place. Some facilities may have mature monitoring, training and response programs, whereas others may not. Therefore, the costs could vary from tens of thousands to tens of millions. Hospitals will be allowed to sub-contract for cybersecurity services and this may reduce the overall cost of program implementation. It is estimated that effective cybersecurity programs can cost between \$250,000 and \$10 Million to develop and implement initially and anywhere from \$50,000 - \$2 Million or more to maintain on a yearly basis depending on the facility size. For small hospitals which there are 15 and are defined as less than 10 acute care or ICU beds, ongoing annual



Best Practices for Avoiding Liability in Hiring and Termination

Labor and Employment Law Fall 2025 Breakfast Briefing

Albany • November 4

Binghamton • October 30

Buffalo • October 16

Corning • September 16

Long Island • October 9

New York City • October 23

Rochester • September 18

Saratoga Springs • October 21

Syracuse • October 8

Utica • October 14

Westchester • September 30

Learn more at bsk.com/events

Questions?



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Sexual Harassment Prevention Training

To combat harassment in the workplace, every New York State employer must provide harassment prevention training for all employees annually.

For more information on Bond's online sexual harassment training [click here](#) or email bondonline@bsk.com

Thank You

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It is not to be considered as legal advice.
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