



# Health Care Labor Report

*Labor activity, trends & events*

## What's the Potential 2010 Focus on the Regulatory Front?

Here's a snapshot of potential activities from agencies that regulate health care employers:

### National Labor Relations Board (NLRB)

- Modification of rules permitting employer restrictions on employees' use of company email.
- Changes to the timeframe for scheduling organizing elections.
- Increasing scrutiny of hospitals' human resources policies for compliance with the latest NLRB's decisions about confidentiality, civility, compensation, loitering and access to the hospital.
- Limiting the definition of supervisors.
- Restricting the definition of independent contractors.

### US Department of Labor (DOL)

- Increased enforcement of wage and hour requirements, including expansion of protections for meal and rest periods.
- Investigations of compliance with the *Genetic Information Nondiscrimination Act*.
- Examination of compliance with new regulations under the *Family and Medical Leave Act*.
- Increased obligations on employers under the *Labor-Management Reporting and Disclosure Act*.
- More vigorous enforcement of requirements around proper classification of independent contractors.

### DOL's Office of Federal Contract Compliance Programs

- Increased scrutiny of Affirmative Action Plan (AAP) compliance by federal contractors, including requirements for subcontractor obligations.
- Implementation of new requirements for federal contractors and the recipients of certain federal grants covered by President Obama's 2009 Executive Orders.
- Issuing final rules on federal contractors obligations to post notice of employee rights.
- Compliance checks for requirements that federal contractors use E-Verify system to determine employment eligibility.
- Expansions of who qualifies as a "federal contractor."

### Occupational Safety and Health Administration

- Increased scrutiny of compliance with requirements about employees' access and use of personal protective equipment.
- Examination of compliance with the Centers for Disease Control and Prevention's directives related to influenza vaccinations and related precautionary procedures and protocols to prevent and control the spread of contagious diseases.
- Issuing new ergonomics regulations, could include standards related to "safe patient lifting."
- Increased burdens imposed on employers to demonstrate regulatory compliance.
- Assessing higher penalties for regulatory violations.

### Equal Employment Opportunity Commission (EEOC)

- Increased enforcement of non-discrimination requirements in traditional areas of EEOC jurisdiction, such as national origin and gender.
- Expansion of agency jurisdiction to new areas of discrimination such as marital status or sexual orientation if Congress enacts pending legislation in these areas.
- More high profile lawsuits brought by EEOC against employers.
- Expanded investigations of disability claims brought under the *Americans with Disabilities Act Amendments Act of 2008*.
- Increased claims related to pay practices under the *Ledbetter Fair Pay Act*.