



## ABOUT BOLTON BENEFITS

For over 70 years, Bolton Benefits has been a leader in providing creative solutions in analyzing, designing and implementing employee benefit programs. In addition to preferred carrier relationships and broad market access, we are able to provide a comprehensive array of services ranging from network analysis to Internet/Intranet services to human resources consulting.

### Products and Services:

- **Group Medical, Vision, Dental and Life**
- **401 (K) Plans**
- **Long Term Care**
- **Employee Handbook Guidance**
- **Employee Assistance Programs**
- **And Much More....**

## LITTLE KNOWN FACTS ABOUT THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY LAW (HIPAA)

### **SPECIAL ENROLLMENT**

Most employers are familiar with the Special Enrollment provisions of HIPAA. This is the law that requires plans to allow employees and/or dependents who have previously waived group coverage to enroll in the employer-sponsored group plan, should they lose coverage on another group plan (for example a spouse's employer-sponsored group plan).

There are a couple of additional "special enrollment" requirements that many employers have overlooked.

### Newly Acquired Dependents

If a benefit plan offers dependent coverage, the plan must allow a 30-day special enrollment period for individuals who become dependents due to marriage, birth, adoption or placement for adoption.

### Un-enrolled Eligible Employees Who Have a Change in Dependent Status

If an otherwise eligible employee has previously declined participation in a group plan and subsequently has a dependent status change (i.e. Marriage, addition of a child, etc.) as the newly acquired dependents have the right to enroll on the benefit plan in a special enrollment period of 30 days after the status change, the employee must also be permitted to enroll in the plan at that time.

## NOTIFICATION TO EMPLOYEES/DEPENDENTS WHEN BENEFITS CHANGE

If there is a material reduction in covered services or benefits, the plan must issue a summary of such changes to participants within 60 days after the date of adoption. Violation of this provision can result in a fine of \$100 per day per individual, to a maximum of \$2,500 per individual per day. This increases to \$15,000 per individual per day if violations are more than *de minimis*. If there are numerous failures due to willful neglect, the maximum excise tax penalty would be the lesser of \$500,000 or 10% of amounts paid or incurred for group health plans. (Claims of violations are governed by ERISA)

If you have any questions, or would like additional information, please do not hesitate to contact us.

# NEW CALIFORNIA LAWS—YEAR 2002

Effective January 1, 2002

## MINIMUM WAGE INCREASE

In California, the minimum wage will increase to \$6.75 per hour.

## DOMESTIC PARTNERSHIPS

Currently, employers who provide sick leave to employees must allow an employee to use at least 50% of his/her leave to care for an ill family member. Sick leave policies cannot limit time to absences for an employee's illness only. Effective January 1, 2002, AB 25 requires employers to include domestic partners under the definition of "family member" IF the employer provides a sick leave plan for employees. AB 25 also allows unemployment benefits for an individual who accompanies a domestic partner to a move from a place where it is impractical to commute and to which a transfer is not available.

## LACTATION ACCOMODATION

AB 1025 requires employers to provide breaks for employees desiring to express milk. If possible, the breaks are to run concurrently with any break time already provided, otherwise any break time in excess of that currently provided is unpaid. The employer must also provide a room or other location for employee use—other than a toilet stall. The room must be in close proximity to the employee's work area and can be the employee's actual work area if the above requirements are met. An employer can claim hardship exception ONLY if such additional breaks would "seriously disrupt" it's operation. There is a \$100 penalty to employers for failure to comply with this law.

## UNEMPLOYMENT BENEFITS

SB 40 increases weekly unemployment benefits according to a schedule. This changes the provision that currently disqualifies an individual for benefits if he/she is a student and replaces it with a provision that states an individual is not qualified for benefits solely on the basis that he/she is only available for part-time work. If an employer has failed to provide advance notice of a facility closing under the Worker Adjustment and Retaining Act (W.A.R.N.-for employers with 100 or more employees), any penalty payment to an individual will not be considered wages or compensation for purposes of determining eligibility for unemployment compensation benefits. This bill also revises the calculations for the base periods on which unemployment compensation benefits are based.

## CHILD SUPPORT GARNISHMENT

AB 1426 provides that an individual obligated to pay child support or the local child support agency may obtain a court order requiring payment of support by electronic transfer from the employer's bank account, if the employer willfully fails to comply with an assignment order or otherwise fails to comply with the assignment order on three occasions within a 12-month period. Furthermore, the non-complying employers can face a penalty of up to 50% of the support amount not received.

## WORKPLACE LANGUAGE POLICIES

AB 800 forbids employers from adopting or enforcing a policy that prohibits the use of any language in the workplace unless the policy is justified by "business necessity" and notice of the policy and consequences for violation are given to employees. "Business necessity" is defined as an overriding legitimate business purpose such that the language restriction is necessary to the safe and efficient operation of the business, that the language restriction effectively fulfills the business purpose it is supposed to serve, and there is no alternative practice to the language restriction that would accomplish the business purpose equally well with a lesser discriminatory impact.

## DRUG AND ALCOHOL REGULATIONS FOR COMMERCIAL VEHICLE DRIVERS

AB 871 places new requirements and penalties on employers who are subject to the federal Department of Transportation drug and alcohol testing requirements. These include (but are not limited to):

1. Triple damages if a driver injures someone
2. Suspension of motor carrier permit for failure to comply with regulations
3. Prohibiting drivers from being placed on duty until compliance with regulations has occurred
4. Making employers document all activities regarding the making or receiving of drivers' employment histories

**We're on the Web!**  
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