

LABOR & EMPLOYMENT

>>ALERT

NEW YORK CITY BANS DISCRIMINATION BASED ON REPRODUCTIVE CHOICE

New York City once again expanded its Human Rights Law (NYCHRL) earlier this year to recognize “sexual and reproductive health decisions” as a protected category under the employment discrimination laws.

New York joins the District of Columbia, Delaware and the City of St. Louis in providing discrimination protections based on an individual’s reproductive health decisions.

NYCHRL UPDATED AMENDMENT

Any employer with four or more employees is prohibited from discriminating against any employee because of a sexual or reproductive health decision, including, without limitation to, any decision by an individual to receive services that are arranged for or offered or provided to individuals relating to sexual and reproductive health, including the reproductive system and its functions.

Those services include, for example:

- >> Fertility-related medical procedures,
- >> Sexually transmitted disease prevention,
- >> Testing,
- >> Treatment, and
- >> Family planning services and counseling, such as:

THE BOTTOM LINE

In light of the recent expansion to the New York City Human Rights Law, New York City employers should review and amend employer handbooks and discrimination policies to acknowledge “sexual and reproductive health decisions” as a protected category, and ensure that managers and human resources personnel are aware of the new protected category and what to do if an employee asserts an allegation of sexual or reproductive health decision-related discrimination or harassment.

- Birth control drugs and supplies,
- Emergency contraception,
- Sterilization procedures,
- Pregnancy testing, and
- Abortion.

Notably, while this new amendment protects employees from discrimination on the basis of a sexual or reproductive health decision, it does not require employers to provide particular reproductive health benefits to employees. However, as discussed in our previous [alert](#), any New York City employer that receives a request for an accommodation related to sexual or reproductive health would be required

to engage in a cooperative dialogue with the employee prior to rendering a decision about that accommodation request.

ENFORCEMENT

The New York City Commission on Human Rights (the Commission) is responsible for enforcing the NYCHRL. Any discrimination complaint arising under the NYCHRL can be filed with the Commission within one year of the alleged discriminatory act or directly in court within three years of the alleged discriminatory act.

Under the NYCHRL, the Commission can impose civil penalties of up to \$250,000 for failure to comply.

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For claims filed directly in court, the aggrieved party may obtain compensatory and punitive damages for the alleged discriminatory conduct,

as well as recover attorneys' fees and costs if the suit is successful.

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