

MEMORANDUM TO CLIENTS

September 3, 2009

RE: New York: New COBRA and Dependent Coverage Laws

Recently, New York enacted two new insurance laws that may affect group health plan coverage for certain individuals. Following is a summary of each law.

New York "mini-COBRA"

Under the Consolidated Omnibus Budget Reconciliation Act of 1986 ("COBRA"), group health plans for employers with 20 or more employees generally must allow plan participants and their dependents the option of continuing group health plan coverage at group rates for at least 18 months if they would lose coverage due to certain "qualifying events" such as termination of employment, death, or divorce. States such as New York also have "mini-COBRA" statutes that allow employees of employers with fewer than 20 employees the same right to continuation coverage. On July 28, 2009, an amendment to New York's "mini-COBRA" statute was enacted (Chapter 236 of the Laws of 2009). This amendment extends the period of continuation coverage in New York from 18 to 36 months regardless of employer size. Key features of this amendment include the following:

- An individual who is eligible for federal COBRA coverage may elect 18 months of federal COBRA coverage and 18 months of state continuation coverage (for a total of 36 months).
- An individual who is eligible for state continuation coverage may continue his coverage for a total of 36 months, regardless of the reason for the loss of coverage.
- This amendment only applies to fully insured health plans.
- This amendment is effective July 1, 2009 and applies to health insurance policies and contracts issued, renewed, modified, altered, or amended on or after that date.

Dependent Child Coverage

On July 28, 2009, New York enacted an insurance law that extends health insurance coverage for unmarried children of insured individuals through age 29 (Chapter 240 of the Laws of 2009). Key features of this law include the following:

- Insurers must provide employers the option of extending coverage for unmarried children of insured individuals through age 29.
- If employers do not extend coverage to unmarried children through age 29, insurers must provide these children the option of extending their coverage through age 29.
- The continued health insurance coverage required under this law must be available regardless of the child's financial dependence or student status.
- An employee, participant, or child must make a written request to continue coverage within 60 days of the date he would otherwise lose coverage due to age.

- Employers are not required to contribute to the cost of this continued coverage.
- A dependent child who lost coverage prior to the effective date of this law must, for a period of 12 months after the effective date of this law, be given the opportunity to elect continued coverage prospectively.
- Insurers must provide certain notices in connection with this continued coverage.
- This law is effective September 1, 2009 and applies to insurance contracts issued, renewed, modified, altered, or amended on or after that date.

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If you have any questions, please contact your regular Groom attorney or any of the Health and Welfare Practice Group attorneys listed below:

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