



City of Philadelphia Expands Protections for Lesbian, Gay, Bisexual and Transgender Workers

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Philadelphia Mayor Michael Nutter has signed into law an ordinance that significantly enhances the rights and protections afforded the lesbian, gay, bisexual and transgender community and makes Philadelphia the first city in the United States to provide tax incentives for businesses to offer LGBT-inclusive health care.

The ordinance, known as the “LGBT Equality Bill,” (Bill No. 130224) amends various provisions of the Philadelphia Code, including its non-discrimination law. Further, it requires that any new building constructed by the City and any renovation undertaken by the City of a building it owns or occupies include gender-neutral bathrooms “in number and location appropriate” to the use of the building or the portion being renovated.

The ordinance takes effect immediately, except that the provisions related to health insurance tax credits take effect beginning with tax year 2013.

Non-Discrimination Provisions

The ordinance applies to all employers doing business in Philadelphia who employ one or more employees, including the City and other public employers. The new ordinance prohibits discrimination based on sexual orientation and gender identity and makes it unlawful for any employer to fail to permit employees to dress consistently in accordance with their gender identity. It is also unlawful for an employer, upon an employee’s request, to fail to change that employee’s name or gender on any employment forms or records, to the extent permitted by law.

The ordinance also expands the definition of marital status to include individuals who are Life Partners, former Life Partners, or surviving Life Partners. A “Life Partnership” is defined as a “long-term committed relationship between two unmarried individuals of the same sex or gender identity” who:

- are residents of the City; or one of whom is employed in the City, owns real property in the City, owns and operates a business in the City, or is a recipient of or has a vested interest in employee benefits from the City of Philadelphia;

- are at least 18 years old and competent to contract;

- are not related to each other by blood in any way which would prohibit marriage in the Commonwealth of Pennsylvania;

- have no other Life Partner but the other person;

- have not been a member of a different Life Partnership for the past three months unless the prior Life Partnership ended as a result of the death of the other Life Partner;

- agree to share the common necessities of life and to be responsible for each other’s common welfare;

share at least one residence with the other Life Partner; and

agree under penalty of law to notify the Commission on Human Relations of any change in the status of the Life Partnership.

Tax Credits

The ordinance provides tax incentives for businesses to offer LGBT-inclusive health care. The first of the two tax credits is for businesses that offer health care insurance coverage for their employees' Life Partners, and for the children of such Life Partners, on the same basis and to the same extent as such businesses make health insurance coverage available for spouses of employees, and for the children of such spouses. The second is for businesses that provide coverage for the medical costs associated with gender transition. The tax credits are the lesser of \$4,000 or 25 percent of certain expenditures.

Health Care Providers

Health care providers must allow a patient's Life Partner, and the children of such Life Partner, visitation rights consistent with that provided under federal law (42 C.F.R. § 482.13(h)). The dependent, foster, or adopted child of the patient's Life Partner shall have the same visitation rights that a child of the patient would have. Further, in the event that the patient is incapacitated, the Life Partner of the patient shall have the same authority to make health care decisions that a spouse of the patient would have.

Movement among Cities

More than 100 cities in the United States have enacted some sort of LGBT non-discrimination law. For example, the City Council of Grand Forks, North Dakota, on June 17 approved an amendment to city law, effective immediately, protecting city workers from discrimination based on sexual orientation and gender identity.

Philadelphia employers should review their non-discrimination policies and practices to identify areas that may require revision for compliance with the new law.

If you have any questions about this or other workplace developments affecting your business, please contact Michelle E. Phillips, (914) 514-6147 or PhillipM@jacksonlewis.com, or the Jackson Lewis attorney with whom you regularly work.

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