

New York City Cares – “Caregivers” Become Protected Employees

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New York City is protecting those who care for others. Effective May 4, an [amendment to the New York City Human Rights Law](#) will make “caregivers” protected employees. Under the amended law, New York City employers with four or more employees will be prohibited from taking adverse employment actions, including firing or refusing to hire, as well as from discriminating against an individual because of actual or perceived “caregiver status.” The amended law is expansive for a number of reasons, in particular the breadth of its definitions. For example:

- anyone may qualify as a “caregiver” under the amended law so long as he or she “provides direct and ongoing care for a minor child or a care recipient;”
- a “care recipient” is someone with a disability who is either a covered relative or who lives in the caregiver’s household, and who relies on the caregiver for medical care to meet the needs of daily living; and
- the term “covered relative” includes children (adopted, biological or foster), spouses, domestic partners, parents, siblings, grandchildren, grandparents, the children or parents of the caregiver’s spouse or domestic partner siblings, grandchildren, grandparents, or “any other individual in a familial relationship with the caregiver” as designated by the New York City Commission on Human Rights.

While the amended law defines the above and other key terms, it fails to define the phrase “direct and ongoing care,” making it difficult for employers to determine which people will qualify for protection as “caregivers.” Also left unclear is to what extent employers must accommodate an employee’s caregiver duties when these duties interfere with performance of job duties. Notwithstanding its breadth and aspects in need of clarity, the penalties imposed for violations are steep – up to \$50,000 with an additional \$100 per day for each day the violation continues. Given that caregivers will become protected employees in a matter of months, New York City employers should consider checking their policies, in particular, hiring, attendance, leave and promotion policies, to ensure they do not discriminate against caregivers.

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