Hot Topics 6/9/16

Masoncare’s Wallingford nursing home has been named in a lawsuit filed by a former employee of third party vendor, Clinical Laboratory Partners (“CLP”), alleging that she was fired in retaliation for reporting a coworker who was videotaping residents and showing the videos to other employees. Interestingly, CLP was not named in the lawsuit even though Masonicare’s attorneys claim that all employees named in the lawsuit worked for CLP. <http://www.myrecordjournal.com/news/state/8904831-154/lawsuit-claims-retaliation-after-report-of-wallingford-nursing-home-residents.html>

Two nurses from the Peninsula Nursing and Rehabilitation Center in Far Rockaway, NY have been criminally charged with endangering the welfare of an incompetent or physically disabled person and face up to four years in prison for actively ignoring a resident for more than 12 minutes after he fell, hit his head, and lay on the floor bleeding. A third nurse, who found the resident and “dragged” him back to his room, has pled guilty to charges of neglect.

<http://www.mcknights.com/news/nurses-charged-with-ignoring-bleeding-snf-resident-after-fall/article/500884/?DCMP=EMC-MCK_Daily&spMailingID=14654617&spUserID=MTM2NDA4NTY3MTQ4S0&spJobID=800234705&spReportId=ODAwMjM0NzA1S0>

The Equal Employment Opportunity Commission (“EEOC”) has filed a Civil Rights discrimination action against Baystate Medical Center (“Baystate”), a Massachusetts corporation, for failing to accommodate an employee’s religious beliefs and ultimately firing the employee. The employee, per company policy, requested an exemption from the hospital’s mandatory employee flu vaccination policy based on her religious beliefs. Company policy requires an employee to wear a mask in the event that they seek exemption from the mandatory flu vaccination policy. The employee in question was unable to effectively communicate and perform her job duties when wearing the mask and requested an alternative reasonable accommodation to the policy based upon her religious beliefs. According to the complaint, in response to employee’s request for reasonable accommodation, Baystate placed employee on indefinite, unpaid leave and subsequently fired employee.

<http://www.mcknights.com/news/feds-sue-provider-that-suspended-employee-who-declined-flu-shot-due-to-religious-beliefs/article/500883/?DCMP=EMC-MCK_Daily&spMailingID=14654617&spUserID=MTM2NDA4NTY3MTQ4S0&spJobID=800234705&spReportId=ODAwMjM0NzA1S0>

Two nursing home residents from Boulder Manor Progressive care Center, a Colorado nursing home, have been arrested for failing to register as a sex offender, or transfer sex offender registration, in the county in which the nursing home was located. One of the residents is currently under investigation for inappropriate sexual contact while at the nursing home.

<http://www.9news.com/news/crime/2nd-arrest-made-at-boulder-nursing-home/228975566>

A North Carolina temporary employment agency has agreed to pay $30,000 to settle a federal lawsuit brought by the Equal Employment Opportunity Commission (“EEOC”) alleging that the temporary agency violated federal law by requiring prospective employees to complete a medical history form during the application process. The complaint also alleged that the temp agency violated federal regulations requiring employers to retain application and other hiring documents for one year. <https://www.eeoc.gov/eeoc/newsroom/release/6-2-16.cfm>

A Michigan company has agreed to pay $33,000 to settle a federal lawsuit brought by the Equal Employment Opportunity Commission (“EEOC”) alleging that the company violated the Americans with Disabilities Act (“ADA”) when it permitted one of its stock persons to work as a cashier by way of reasonable accommodation for a back impairment and later fired the same employee upon learning that her restrictions relating to the back impairment were permanent.

<https://www.eeoc.gov/eeoc/newsroom/release/6-1-16.cfm>

A Nashville, Tennessee ambulance company has agreed to pay $55,000 to settle a federal lawsuit brought by the Equal Employment Opportunity Commission (“EEOC”) alleging that the company violated federal law by refusing to accommodate female employees with lifting restrictions due to pregnancy while providing comparable accommodations to non-pregnant employees. In this case, a pregnant emergency technician presented the ambulance company with a doctor’s note restricting her from lifting patients greater than 200 pounds without assistance. According to the complaint, the ambulance company refused to grant a reasonable accommodation to the pregnant emergency technician that would enable her to continue working with a medical lifting restriction and, instead, forced her to take unpaid leave. However, the company maintained a policy that permitted other, non-pregnant employees, to use a power cot to lift patients.

<https://www.eeoc.gov/eeoc/newsroom/release/5-27-16.cfm>