



Presents

The Employee Free Choice Act (EFCA)

A 2-part Webinar Series

January 30 and February 6, 2009

Overview:

Part One: "The Employee Free Choice Act: Pitfalls and Preparation" - January 30, 2009

For decades, America's labor laws have been grounded in the principle that all workers should have the freedom to decide whether to bargain collectively with their employers. As it is currently proposed, the Employee Free Choice Act [EFCA], S. 800, has been designed to fundamentally change the labor relations playing field in favor of organized labor. Passage of EFCA is expected to top organized labor's agenda for the new Congress and since President-elect Barack Obama has signaled his strong support for organized labor and this legislation as part of his campaign, the EFCA's passage - in some form or another - will be almost certain. What would that mean for hospitals and other non-unionized healthcare facilities?

First, the EFCA would practically **eliminate** the ability of employers to insist on **secret ballot elections**, instead using a "card check" method to determine the employee's interest. This would take away the time that management used to have to educate its employees about what unions are and are not!

Second, the EFCA would all but eliminate the ability of the employer to force the union to engage in true collective bargaining as this proposed legislation would drastically reduce the amount of time the parties can bargain.

Third, EFCA would empower a union to seek binding "interest-arbitration" by an "impartial governmental arbitrator" if the two parties cannot reach agreement on the contract proposals.

Last, EFCA would significantly enhance the penalties associated with unfair labor practices committed during the time a union is trying to organize a company's workforce.

Objectives:

This program will review current law and the proposed language of the EFCA to assist hospital boards and CEOs in managing this potential change. This program will offer simple implementation strategies such as:

- Redefining the organization's philosophy on union organizing
- Analyzing which parts of the healthcare organization are susceptible to organizing efforts
- Evaluating the organization's communications between employees and supervisors
- Reviewing written solicitation and distribution policies and practices for adequacy in light of the EFCA
- Training for supervisors about the expected impact of potential changes in the law, union organizing tactics and approaches, the potential impact of unionization on the organization, and what supervisors can and cannot say or do in response to union organizing
- Deciding whether or not to speak directly to employees about union organizing

Part Two: "The RESPECT Act's Impact on the EFCA" – February 6, 2009

The proposed Re-Empowerment of Skilled and Professional Employees and Construction Trades workers Act, H.R. 1644, nicknamed the "RESPECT Act," is poised to be making its way through a "friendly" Congress. This bill would amend the definition of "supervisor" in the *National Labor Relations Act* (NLRA) by removing two functions that classify a nurse as a supervisor: "assigning" and "responsibly directing" other staff. It also would add a new requirement: that a supervisor spend "a majority of the individual's work time" performing the remaining duties in the definition, such as personnel and disciplinary-related functions. These definitional changes would reverse the National Labor Relations Board (NLRB) guidance used to determine the essential characteristics of supervisory status and would significantly affect the ability of HR professionals to manage their respective workforces.

If H.R. 1644 is enacted, nurse supervisors would be subject to union control, work rules, fines and other forms of union discipline for crossing a picket line or continuing to work during a work shortage. In addition, nurses who are supervisors would no longer exclusively serve as the employer's voice in labor-management relations during union organizing campaigns, grievances and labor disputes. By removing the functions of "assigning" and "responsibly directing" other staff, the bill undermines hospitals' ability to depend on the charge nurse to ensure continuity of care.

The impending passage of EFCA makes it critical for healthcare organizations to refocus on practicing good employee relations. If the "RESPECT" Act is passed, hospital executive management will have lost a crucial player in the preemptive phase of union organizing. The nurse supervisor has always represented and acted on behalf of, the hospital, providing a management/leadership voice to patients, families and other employees. When there is a crisis in patient care, it is the nurse supervisor who steps in and provides skilled leadership and learned guidance.

With the likelihood of the EFCA passage, it is more critical than ever that hospital boards and the executive management team ensure that employees are treated fairly, dealt with consistently, and listened to effectively. Administration ultimately must have the complete loyalty of a sufficient number of "supervisors" in their respective workforces if they are to deliver quality patient care in an effective, productive and safe manner. It is essential that nurse supervisors perceive themselves, and that others perceive them, as part of hospital management.

Objectives:

This session will review the details of the EFCA and assist hospital boards and CEOs by offering information to help with:

- Understanding how the political changes associated with the redefinition of "supervisor" in the "RESPECT" Act will set the stage for stepped-up union activity in light of EFCA
- Understanding how the passage of the "RESPECT" Act will impact the relationship between administration and nursing supervisors and how that may detrimentally affect overall employee relations.

Target Audience:

Chief executive officers, chief financial officers, chief operating officers, board chairs, board members, human resource directors and staff, directors of nursing, nursing supervisors, legal counsel and all other interested personnel.

Faculty:

Victor Cardwell Esq., specializes in Labor and Employment law and was named to the "Best Lawyers in America" list in 2006 and 2007. Prior to joining Woods Rogers in 1991, Victor served as Deputy Associate Chief Counsel with the U. S. Department of Labor Benefits Review Board. Victor is a member of the House of Delegates of the American Bar Association, representing Virginia, and is a former member of the Governor's Council on Human Rights. Victor works on cases involving all issues represented in the labor and employment field, and has specialized interest in workplace violence, diversity, harassment, and the Fair Labor Standards Act. Victor provides training in a number of areas of labor and employment law across the state and is experienced in representing management in union organizing campaigns and union avoidance techniques. He has practiced before the National Labor Relations Board and has significant experience before state and federal courts and administrative agencies throughout the region.

Tom Winn, Esq., a principal in the firm of Woods Rogers, represents management in the full range of labor and employment law issues. Tom represents employers in litigation before state and federal courts and administrative agencies. Tom also handles labor arbitrations, negotiations, strike-related activities and other issues under collective bargaining agreements. He counsels management in union avoidance campaigns, and regularly handles litigation before the NLRB.

Tom is named in The Best Lawyers in America in the Labor and Employment practice area and has been cited by Virginia Business magazine's "Legal Elite" in the Labor and Employment and the Young Lawyer categories. Tom is a past chairman of the Employment Law Section of the Virginia Association of Defense Attorneys. Tom has authored and co-authored numerous articles in various publications, including The Journal of Civil Litigation and The University of Richmond Law Review. Tom is co-author of Labor & Employment Law In Virginia: A Business Guide For Employers, a book published through the Virginia Chamber of Commerce.

Stephen A. Burt is president of Healthcare Compliance Resources, an affiliate of Woods Rogers Consulting, of Roanoke, Virginia. Steve has been involved in surveying healthcare facilities to ensure compliance with OSHA, EPA, HHS, CMS and Joint Commission regulations since the early 1980s. He continues to be one of the most popular speakers in the southeast on OSHA, HIPAA and management topics for healthcare providers, conducting over 50 programs a year.

Continuing Education Credits:

VHREF is authorized to award 1.5 hours of pre-approved Category II (non-ACHE) continuing education credits for each session of this program toward advancement or recertification in the American College of Healthcare Executives. Participants in this program wishing to have the continuing education hours applied toward Category II credit should list their attendance when applying to the American College of Healthcare Executives for advancement or recertification.

Registration Information:

The fee is \$200 per connection for each session or \$375 per connection for both sessions. You will need a telephone (preferable a speaker phone) as well as Internet. Multiple individuals from the same facility may participate for the same fee. Connection instructions and handout materials will be e-mailed to each participating site prior to the day of the session. Payment must be received in order to get materials. Registration deadline is January 26.

Time:

Log-in begins at 1:45 p.m. Each program will begin at 2 p.m. and end at 3:30 p.m. EST.

Cancellations:

A refund will be made to those registrants notifying VHREF of cancellation three days prior to the program date. A \$25 processing fee will be assessed against each refund.



These Webinars are designed to deliver participants timely information on a wide range of health care related topics and provides an important mechanism for multiple representatives from organizations to participate simultaneously at a fraction of the cost of single location, face-to-face seminars.

**** Registration Form ****
The Employee Free Choice Act (EFCA)

A 2-part Webinar Series

January 30 and February 6, 2009

Contact: _____ Title: _____

Organization: _____

Address: _____

City, State, Zip: _____

Phone: _____ Fax: _____ *E-Mail: _____

***Note: All program materials will be sent to this e-mail address as shown above.**

The fee is \$200 per connection for each session or \$375 per connection for both sessions.

___ Session One ___ Session Two ___ Both Sessions

___ Check (payable to VHREF) ___ Visa ___ MasterCard ___ AmEx

Name of Cardholder: _____

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Card Number: _____ Security Code*: _____

Amount: \$ _____ Expiration Date: _____

*For Visa & MasterCard – three digit number on back of credit card, American Express – four digit number on face of card.

Registration Deadline: January 26



Mail with your remittance to:
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