

PUTNEY, TWOMBLY, HALL & HIRSON LLP

ESTABLISHED 1866

COUNSELORS AT LAW

521 FIFTH AVENUE

NEW YORK, NEW YORK 10175

(212) 682-0020

TELEFAX: (212) 682-9380

PUTNEYLAW.COM

120 WOOD AVENUE SOUTH

SUITE 600

ISELIN, NEW JERSEY 08830

(732) 632-2505

TELEFAX: (732) 632-2506

1205 FRANKLIN AVENUE

GARDEN CITY, NY 11530

(516) 746-0070

TELEFAX: (516) 746-0599

2500 NORTH MILITARY TRAIL

SUITE 200

BOCA RATON, FLORIDA 33431

(800) 935-8480

TELEFAX: (561) 393-9707

COUNSEL

CHARLES J. GROPPE

ALEXANDER NEAVE

LOUIS A. TRAPP, JR.

DUSTAN T. SMITH

DANIEL F. MURPHY, JR.
MICHAEL T. McGRATH
THOMAS A. MARTIN
WILLIAM M. POLLAK
JAMES E. McGRATH, III
CHRISTOPHER M. HOULIHAN
THOMAS M. LAMBERTI
STEPHEN J. MACRI
HARVEY I. SCHNEIDER
MARY ELLEN DONNELLY
JOSEPH B. CARTAFALSA
GEOFFREY H. WARD
ANDREA HYDE
E. PARKER NEAVE
MARK A. HERNANDEZ
JAMES M. STRAUSS
PHILIP H. KALBAN
SEAN H. CLOSE
LANSING R. PALMER
JEROME P. COLEMAN

October 30, 2008

CLIENT ALERT

**PROPOSED REGULATIONS ISSUED IMPLEMENTING
NEW JERSEY PAID FAMILY LEAVE LAW**

On October 6, 2008 the New Jersey Department of Labor and Workforce Development (NJDOL) issued proposed regulations implementing New Jersey's Paid Family Leave Law, formally known as the Family Leave Insurance Law.

The new Paid Family Leave Law, which gives employees the right to take up to six weeks of paid leave during any twelve-month period to care for a sick relative, newborn, or adopted child, will take effect January 1, 2009, with employee contributions commencing on that date. Employees may begin receiving benefits under the law on July 1, 2009. The new law is essentially an overlay to the New Jersey Family Leave Act (NJFLA) and the federal Family and Medical Leave Act (FMLA). For employers already covered by the NJFLA and the FMLA, the law does not provide any right to additional time off from work, nor does it affect employees' existing rights. Rather, the law only addresses compensation. More information about the requirements of the Paid Family Leave Law can be found in our May 20, 2008 Client Alert, posted on our web-site at http://www.putneylaw.com/pdfs/updates/NJ_paid_family_leave.pdf.

The proposed regulations provide clarification and guidance in a number of areas under the new law, including the procedure for filing a claim, employer notice requirements, private plan approvals, and the reduction of benefits under various circumstances.

Claim Filing Procedures: An employee must give his or her employer notice of the period of family leave upon which the employee's claim for family leave insurance is based. This notice must be no less than thirty days prior to the commencement of the family leave if the leave is taken to care for a newborn or adopted child. If the claim is

for family leave insurance benefits to care for a family member with serious health conditions, however, prior notice of the leave must be given in a “reasonable and practicable manner,” unless an emergency or other unforeseen circumstance precludes prior notice.

An employee seeking family leave insurance benefits must also notify the state, within thirty days after the commencement of the period of family leave. The NJDOL will issue forms that employees may use to provide notification to the state.

The NJDOL may request information pertaining to a claim for family leave insurance benefits. Employers who receive such a request must respond within ten days.

Payments under the state plan will generally be paid directly to the employee. Payments may be made to the employer, however, where the employer has advanced money to the employee in an amount equal to or greater than the family leave insurance benefit, and where the employee has consented in writing to such a payment.

Employer Notice Requirements: Employers must post a printed notice of covered employees’ rights pertaining to family leave insurance benefits in a place accessible to all employees. Employers must also distribute (electronic distribution is permitted) the notice to employees at various times, including within thirty days of the effective date of this law (e.g., no later than January 31, 2009), at the time of hiring, and when an employee applies for family leave insurance benefits. The NJDOL will make both notices available for posting and distribution upon written request by the employer to the NJDOL.

Private Plans: Employers that want to provide family leave insurance benefits through a private plan must submit the plan to the NJDOL for approval. The NJDOL has issued a Handbook on private family leave insurance plans, which is available on the NJDOL website, at http://lwd.state.nj.us/labor/tdi/employer/private/pp_emp_menu.html.

Reduction of Benefits: Employers may require their employees to use up to two weeks of paid sick leave, vacation time or other paid leave in lieu of family leave insurance benefits. When an employer requires such use of paid leave, the employer must request that the state or private plan reduce the family leave insurance benefits otherwise payable under the plan. Failure to do so will allow the employee to retain full benefits under the plan.

These proposed regulations are scheduled for a public hearing on November 3, 2008. Written comments may be submitted to the NJDOL through December 5, 2008.

If you should have any questions regarding these proposed regulations or the Paid Family Leave Law, please contact us.

PUTNEY, TWOMBLY, HALL & HIRSON LLP