



NABIP Utah President & SHRM Minutes

February 19 2025

Location: Email

Communication Type: Email

**Email between Evelyn Everton, Lobbyist for NABIP UT, Erick Kuhni, NABIP UT
Legislative Chair, Bob Coursey, SHRM Legal**

See attached



Nicole Kuhni <nicole@benefitsculptor.com>

Concerns for Small Business with SB 245

12 messages

Evelyn Everton <evesquaredllc@gmail.com>

Wed, Feb 19, 2025 at 12:06 PM

To: legal@slshrm.org, Nicole Smith <nicole@benefitsculptor.com>

Hello,

I wanted to make you aware of a bill that would impact small employers and HR departments. I represent NABIP an association of health insurance brokers who work with small business all over the state of Utah. You can **see the bill draft here**: <https://le.utah.gov/~2025/bills/static/SB0245.html> We are working to build a coalition to oppose the bill.

Why We Oppose SB 245

1. Employers Already Provide Required Notifications

- Health plans and ERISA regulations already require notifications regarding dependent enrollment.
- Employees receive multiple notices through Summary Plan Descriptions (SPDs), Open Enrollment, COBRA, and HIPAA special enrollment rights.
- The problem isn't a lack of notice—it's that employees sometimes fail to take action despite receiving multiple reminders. **The solution to not reading notices is NOT more notices!**

2. This Bill Adds Unnecessary Liability for Employers

- Employers would be responsible for tracking informal leave conversations to ensure compliance. See line 34:

*"(2)An employer shall provide a notice described in Subsection (3)(a) to the employer's employee when the employee is approved for:
(a)maternity leave or paternity leave offered by the employer, if offered; or"
employee when the employee is approved for:
(a)maternity leave or paternity leave offered by the employer, if offered; or"*

This seems to imply that if any informal maternity leave is offered, then an employer is obligated. These kinds of informal leaves are common in small businesses, they are not tracked, and so the notification requirement represents a huge liability challenge for small businesses.

- Small businesses, which often operate with less formal HR structures, are at higher risk of noncompliance.
- This bill makes employers responsible for **reminding employees of personal responsibilities, which goes beyond notification and into employee hand-holding. The employee already receives notifications under ERISA**

3. A More Effective Alternative: Extend the Enrollment Window

- Instead of adding another employer mandate, lawmakers should **extend the newborn enrollment period from 30 days to 3 to 6 months.**
- This would work like COBRA and other QLE rules, allowing employees to enroll but requiring them

to pay back premiums to the date of birth or adoption.

- o This solution ensures coverage while removing unnecessary compliance risks for businesses.

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 Best Regards,
 Evelyn Everton
 801-580-0686

Bob Coursey <bobcoursey@modernagelaw.com>
 To: Evelyn Everton <evesquaredllc@gmail.com>
 Cc: legal@slshrm.org, Nicole Smith <nicole@benefitsculptor.com>

Wed, Feb 19, 2025 at 8:20 PM

I don't see any penalty or private cause of action in this bill. What happens if an employer fails to comply?



Rob Coursey
Esq., SPHR, SHRM-SCP
Modern Age Employment Law LLC
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 e: bobcoursey@modernagelaw.com
 w: www.modernageemploymentlaw.com



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Nicole Kuhni <nicole@benefitsculptor.com>
 To: Erick Kuhni <erick@benefitsculptor.com>

Wed, Feb 19, 2025 at 8:52 PM

Nicole Kuhni
 Co-Founder, Benefit Sculptor
 President, NABIP Utah
 Board of Directors, Boys & Girls Club of Utah County



Nicole Kuhni, LPRT
 Co-Founder / Benefit Specialist
 NABIP UT President/LPRT RVII

-  303-918-3611
-  UT License: 392856
-  CO License: 683496
-  80 North 100 East, Provo, UT 84606
-  NPN: 16430618





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Evelyn Everton <evesquaredllc@gmail.com>
 To: Bob Coursey <bobcoursey@modernagelaw.com>
 Cc: legal@slshrm.org, Nicole Smith <nicole@benefitsculptor.com>

Wed, Feb 19, 2025 at 9:54 PM

Our concern is that if an employer fails to notify an employee about adding a newborn within 30 days before or after birth and the employee incurs medical expenses that the employer could then be liable for these medical expenses. It's not stated explicitly in the bill but the sponsor acknowledged that could be an outcome. What's your take on this bill?

Best Regards,
 Evelyn Everton

On Feb 19, 2025, at 8:21 PM, Bob Coursey <bobcoursey@modernagelaw.com> wrote:

[Quoted text hidden]

Nicole Kuhni <nicole@benefitsculptor.com>
 To: Erick Kuhni <erick@benefitsculptor.com>

Wed, Feb 19, 2025 at 9:58 PM

Nicole Kuhni
 Co-Founder, Benefit Sculptor
 President, NABIP Utah
 Board of Directors, Boys & Girls Club of Utah County



Nicole Kuhni, LPRT
Co-Founder / Benefit Specialist
NABIP UT President/LPRT RVII

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- CO License: 683496
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- NPN: 16430618





----- Forwarded message -----

From: **Evelyn Everton** <evesquaredllc@gmail.com>
Date: Wed, Feb 19, 2025 at 9:54 PM
Subject: Re: Concerns for Small Business with SB 245
To: Bob Coursey <bobcoursey@modernagelaw.com>
CC: <legal@slshrm.org>, Nicole Smith <nicole@benefitsculptor.com>

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Erick Kuhni <erick@benefitsculptor.com> Fri, Feb 21, 2025 at 10:28 AM
To: Nicole Kuhni <nicole@benefitsculptor.com>, bobcoursey@modernagelaw.com, Evelyn Everton <evelynrevertton@gmail.com>

Hi Rob - It's nice to meet you via email. I am the NABIP legislative chair, I'd like to respond.

The bill does not specify any penalties, and I am not an attorney so I would ultimately defer to your professional opinion on that. In general practice, the liability we'd be concerned about is similar to those where an employer fails to provide ERISA or COBRA notifications. It can ultimately mean that the employer is liable for medical expenses that would have been covered had the baby been properly enrolled. So in a simple hypothetical scenario:

we have an employer who has made proper ERISA notification, but fails to provide this additional newborn notification (SB245) when an employee takes maternity/paternity leave, AND then the employee fails to make timely enrollment for any of; the newborn child, themselves, the other parent; AND then medical issues arise for any of those persons between the time of birth and the next open enrollment, the employer could be find liable for related medical expenses.

I don't believe that this is an unreasonable concern, but again I would defer to your opinion. If I am correct, then this would definitely have implications that SHRM members wouldn't want to be aware of, and likely weigh in on. We are reaching to various partners in the small business community to inform them of this bill and our concerns. If SHRM

shares our concerns, then we could be quite effective in raising our voice against this bill.

Kindly

Erick Kuhni
801.358.9018

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--

Erick Kuhni | Founder/CEO

Benefit Sculptor

O: 801.356.2222 | M: 801.358.9018

erick@benefitsculptor.com | Provo, UT

Bob Coursey <bobcoursey@modernagelaw.com>

Sat, Mar 1, 2025 at 8:43 PM

To: Erick Kuhni <erick@benefitsculptor.com>

Cc: Nicole Kuhni <nicole@benefitsculptor.com>, Evelyn Everton <evelynreverton@gmail.com>

Hello all. I appreciate this insight into this bill. I agree that what you raise is a real potential concern. I think it's silly that the bill leaves that vague though. Do you know what the current status of this bill is? If it's still active, I'll bring this concern to my Salt Lake SHRM Board and see if we want to mobilize against it or lobby for changes to the language.



Rob Coursey

Esq., SPHR, SHRM-SCP

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Erick Kuhni <erick@benefitsculptor.com>

Sun, Mar 2, 2025 at 11:37 AM

To: Bob Coursey <bobcoursey@modernagelaw.com>

Cc: Nicole Kuhni <nicole@benefitsculptor.com>, Evelyn Everton <evelynreverton@gmail.com>

Hi Bob - I'll get you an update tomorrow that have pushing this one through fast, we've been the only group opposing, so our efforts have been largely ignored

Erick Kuhni | Founder/CEO

Benefit Sculptor

O: 801.356.2222 | M: 801.358.9018

erick@benefitsculptor.com | Provo, UT

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Bob Coursey <bobcoursey@modernagelaw.com> Mon, Mar 3, 2025 at 9:59 AM
To: Erick Kuhni <erick@benefitsculptor.com>
Cc: Nicole Kuhni <nicole@benefitsculptor.com>, Evelyn Everton <evelynrevert@gmail.com>

Sounds good, Erick.



Rob Coursey
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Evelyn Everton <evelynrevert@gmail.com> Mon, Mar 3, 2025 at 12:46 PM
To: Bob Coursey <bobcoursey@modernagelaw.com>
Cc: Erick Kuhni <erick@benefitsculptor.com>, Nicole Kuhni <nicole@benefitsculptor.com>

It will be in House Health and Human Services committee tomorrow at 2 pm.
Best Regards,
Evelyn Everton

On Mar 3, 2025, at 10:00 AM, Bob Coursey <bobcoursey@modernagelaw.com> wrote:

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Erick Kuhni <erick@benefitsculptor.com> Mon, Mar 3, 2025 at 12:58 PM
To: Evelyn Everton <evelynrevert@gmail.com>
Cc: Bob Coursey <bobcoursey@modernagelaw.com>, Nicole Kuhni <nicole@benefitsculptor.com>

Hi Bob - Given the short notice, we are going to send an email to committee members. I'd be happy to provide you with the text of what we will be sending, and then a list of the committee member contacts. I think getting this out today would be critical.

Kindly

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Erick Kuhni <erick@benefitsculptor.com>

Mon, Mar 3, 2025 at 1:13 PM

To: Evelyn Everton <evelynrevert@gmail.com>, Nicole Kuhni <nicole@benefitsculptor.com>

Here is what I am proposing for our letter to the committee members, this has not been sent. Are there any objections?

Subject: Urgent: Opposition to SB 245 – Unnecessary Employer Liability Risk

Dear [Committee Member's Name],

I am writing on behalf of [Organization Name] to express our strong opposition to Utah Senate Bill 245 (2025), which is scheduled for review by the Health and Human Services Committee. While intended to support employees, this bill creates **significant liability risks for employers—especially small businesses—and imposes redundant notification requirements that do not effectively address the core issue.**

Why We Oppose SB 245

Employers Already Provide Required Notifications

- Health plans and ERISA regulations already mandate multiple notifications related to dependent enrollment.
- Employees receive reminders through Summary Plan Descriptions (SPDs), Open Enrollment materials, COBRA notices, and HIPAA special enrollment rights.
- The issue isn't a lack of notice—it's that some employees fail to take timely action. **The solution to not reading notices is NOT more notices.**

This Bill Creates Unnecessary Employer Liability

- The bill **fails to define penalties**, yet the implications for noncompliance could be significant.
- If an employer fails to issue this additional notification, even if ERISA requirements were met, they could face liability for medical expenses if the employee fails to enroll their child on time.
- **See Line 34:**

"(2)An employer shall provide a notice described in Subsection (3)(a) to the employer's employee when the employee is approved for: (a) maternity leave or paternity leave offered by the employer, if offered;"

- This suggests that **even informal parental leave arrangements**—which are common in small businesses—trigger a notification requirement.
- Small businesses, which operate with fewer HR resources, face a heightened risk of unintentional noncompliance.
- This effectively shifts the responsibility for personal enrollment decisions **from employees to their employers.**

A More Effective Alternative: Extend the Enrollment Window

Rather than **burdening employers with redundant notices**, a **practical, effective solution** would be **extending the newborn enrollment period from 30 days to 3 to 6 months.**

- This would function like **COBRA or other Qualifying Life Event (QLE) rules**, where employees could still enroll but would owe back premiums to the date of birth or adoption.

- **This approach ensures newborns are covered without creating unnecessary legal risk for employers.**

Concerns About Legislative Process

We have attempted to meet with the bill sponsor to discuss these concerns but have faced delays, while this bill appears to be moving forward without meaningful engagement from the business community.

Request for Action

We urge you to **vote against SB 245**. We also encourage further dialogue with the employer and business community before advancing this bill. Alternatives, such as extending the enrollment, would be a better solution and should be negotiated instead of imposing aggressive notification requirements. We also encourage further dialogue with the employer and business community before advancing this bill.

Thank you for your time and consideration.

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