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Labor and Employment Alert: New Philadelphia Regulations Permit Closing Businesses That Discriminate

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Philadelphia's Fair Practices Ordinance already prohibits discrimination in public accommodation, employment, and housing because of age, ancestry, color, disability, domestic/sexual violence victim status, ethnicity, familiar status, gender identity, marital status, national origin, race, religion, sex and sexual orientation. The city's Commission on Human Relations may order a wide range of remedies after finding unlawful discrimination, including injunctive relief, compensatory damages, punitive damages and reasonable attorneys' fees.

Recently, the city council amended the Fair Practices Ordinance to give the commission a new remedy – the authority to shut down businesses that have violated the city's anti-discrimination law. Under the ordinance:

The commission may, upon a finding that a respondent has engaged in severe or repeated violations without effective efforts to remediate violations, order that the respondent cease its business operations in the city for a specified period of time.

This language is broad and vague. The ordinance provides no guidance or explanation as to what constitutes "severe or repeated violations." Nor does the ordinance explain what would be considered an "effective effort" by an employer to remedy the violation. Finally, the commission does not have any guidelines for determining what "period of time" a business will have its operations suspended.

It is likely that the commission will adopt further regulations to address these issues. Philadelphia employers should review their anti-discrimination policies and practices to minimize potential violations and the potential that the commission may close their operations. Contact your Vorys lawyer if you have questions about best practices for preventing and addressing discrimination claims.