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Employers State Law Alert

Summarizing Significant New Employment Laws & Regs in All 50 States

Analysis

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Should AI monitor workers' emotions? Some states are passing restrictions

by Tammy Binford

Lawmakers in a handful of states are looking askance at how employers may be able to monitor their employees' emotional states. What once sounded like science fiction is now reality thanks to advances in artificial intelligence (AI). So, the question for employers and lawmakers is: How far is too far for employers to go when monitoring employees?

DEFINING NEURAL DATA

Lawmakers in some states have promoted legislation on how employers can monitor and collect their employees' neural data. The process of writing legislation starts with a definition of neural data.

Language in state legislation varies, but generally neural data refers to the kind of information most people wouldn't expect their employer to be able to detect. In California, the authors of Assembly Bill (AB) 1883, which was signed into law on September 30, define neural data as "information that is generated by measuring the activity of an employee's central or peripheral nervous system, and that is not inferred from nonneural information."

How can employers collect neural data? The technology exists, and the market is growing. Research last updated in May from Precedence Research—a global market intelligence, research, and consulting firm—says the global neurotechnology market was worth $17.32 billion in 2025 and was predicted to increase from $19.61 billion in 2026 to approximately $59.02 billion by 2035.

The growth of the neurotechnology market isn't centered on its use in employment. Instead, Precedence Research says it's driven by the rising prevalence of neurological disorders all around the world, and the technology is valuable in healthcare settings.

But employers can use the technology to monitor what's going on with their employees, measuring things like facial expressions during video calls and worker productivity and stress. The technology can be built into headsets, earbuds, and full cap systems.

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WHAT STATES ARE DOING

An article from Ops Intel, a company focusing on AI compliance issues for small and midsize companies, explains that California's recent legislation focuses on two categories of AI use in the workplace: First, it bans the collection of neural data by employer-deployed AI tools, and second, it prohibits the use of AI systems designed to detect or infer a worker's emotional state.

In addition to California, Illinois considered legislation in House Bill 2984, which was introduced in February 2025 and subsequently died in 2026. That bill would have amended the state's Biometric Information Privacy Act to include neural data under rules already in place covering how employers can use facial scans and fingerprints.

At least four states have tackled neural data regulation as it relates to consumer protection and identification instead of employment. An August 2025 article from the Future of Privacy Forum—a think tank that focuses on data protection, AI, and emerging technology—lists those states as California, Colorado, Connecticut, and Montana.

State lawmakers aren't just concerned with legislation covering how employers and other entities can use AI related to neural data. California, for example, passed two laws recently aimed at strengthening AI safeguards by establishing standards for third-party audits and independent assessments of AI systems.

California's Senate Bill (SB) 813 establishes a framework for independent verification organizations that can assess AI systems and models for compliance with state law. AB 1405 creates a state registry for AI auditors and establishes standards for their independence, transparency, and integrity.

HR data and analytics provider Brightmine has compiled a list of state employment-related laws and regulations addressing AI. Among those listed in the article, which was updated on July 10, 2026, are the following:

- AB 2602 in California, passed in 2024, makes employment agreements unenforceable if a provision allows for the creation and use of a digital replica of a worker's voice or likeness.
- A regulation in California (OAL Matter Number 2025-0515-01) says that an employer's use of automated decision systems may violate state law if it results in discrimination on the basis of a protected characteristic.
- California's SB 53, passed in 2025, covers developers of extremely large AI systems and requires them to shield from retaliation employees who are responsible for assessing or managing AI risks if they report safety concerns.
- Colorado's SB 189, which is set to take effect on January 1, 2027, requires employers that use automated decision-making technology to influence consequential employment decisions to provide notice, as well as details to individuals who are adversely affected by the decision.
- Connecticut's SB 5, signed into law on May 27, with staggered effective dates beginning October 1, also addresses employers' use of automated employment-related decision technology. Among other things, the law says an employer's use of that technology isn't a defense to unlawful discrimination complaints. Also, software developers are prohibited from retaliating against employees who report health or safety concerns.
- Illinois also has a law (2025 SB 315) that takes effect January 1, 2027, that prohibits software developers from retaliating against employees who report health or safety concerns. Also, certain large software developers are required to establish reporting requirements.
- Other employment-related AI laws in Illinois cover use of digital replicas of a worker's voice or likeness and require employers to comply with consent and data-retention policies related to video interviews, use of an AI analysis of applicant-submitted interviews, and use of AI when it subjects employees to discrimination based on a protected class.
- A law passed in 2020 in Maryland requires employers to be transparent, follow ethical guidelines, and obtain employee consent to use AI-based facial recognition technology in hiring.
- A law from 2023 in New York makes employment agreements unenforceable if a provision allows for the creation and use of a digital replica of the worker's voice or likeness.
- A law passed in Texas in 2025 prohibits employers from developing or using an AI system to intentionally discriminate against a protected class in violation of federal law.

ADVICE FOR EMPLOYERS

AI advances mean employers have new tools but also new challenges. HR consulting and compliance company Synergy HR published an article in June suggesting steps employers should take. Here are some of the suggestions:

Return to TOC

- Conduct an AI tool audit examining the tools that influence hiring decisions.
- Strengthen vendor due diligence.
- Establish meaningful human oversight.
- Conduct risk assessments and maintain records of impact assessments.

STATUTES

California

EMPLOYEE TRAINING

Harassment training and education

California adopted new sections to the sexual harassment training and education statute to require that, beginning January 1, 2028, an employer shall include anti-hate speech training in the two hours of education regarding sexual harassment for employees. The training is to provide supervisors and employees with "practical guidance on recognizing, reporting, and confronting workplace speech that vilifies, humiliates, or incites hatred" based on protected characteristics.

Cite: CA AB 1803; GOV Code, Section 12950.1 (5 pages)

Enacted: 9/27/2026

Effective: 1/1/2028

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EMPLOYEE WORKPLACE

Health and safety

The Health and Safety Code was amended to add a new section requiring employers which require CPR certification training of employees to also require that those employees take only video training on the use of naloxone to increase the rate of opioid overdose reversals. Employers are to pay fo the costs of the training that shall be separate from existing CPR training.

Cite: CA AB 2150; Health and Safety Code, Ch. 384, Section 1797.197b (4 pages)

Enacted: 9/20/2026

Effective: 9/20/2026

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LABOR

Employee benefits

The Labor Code was amended to include employees who perform building maintenance work as stationary engineers to the list of employees for which the restrictions, regarding the hours of work without a 30-minute meal period, do not apply. A "stationary engineer" is defined as a skilled tradesperson in a fixed facility who operates, maintains, monitors, and repairs stationary mechanical equipment and building systems, and whose occupation has a state-registered apprenticeship program established before December 31, 1964.

Cite: CA AB 2078; LABOR Code, Section 512 (3 pages)

Enacted: 9/18/2026

Effective: 9/18/2026

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LABOR

Employee benefits

The statute regarding bereavement leave was amended to include a "designated person," defined as any individual related to the employee by blood or whose association with the employee is the equivalent to a family relationship, as one included as a "family member," for which the employee may request bereavement leave upon their death.

Cite: CA SB 1149; GOV Code, Section 12945.7 (3 pages)

Enacted: 9/27/2026

Effective: 9/27/2026

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LABOR

Employee workplace

The legislature added a new section to the Labor Code to prohibit specified workplace surveillance of employees while the employee is in a bathroom located in the workplace. The employee has the right to leave behind any workplace surveillance tools that are in their possession. Enforcement of the section shall be by the Labor Commissioner with fines, as well as a public prosecutor and/or through civil actions seeming appropriate injunctive relief.

Cite: CA AB 1331; LABOR Code, Division 2, Section 1560-1565 (4 pages)

Enacted: 9/30/2026

Effective: 9/30/2026

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LABOR

Minimum wage

Section 1208 was added to the Labor Code to provide that the minimum hourly wage for an approved agricultural employee shall be $19.75 per hour, beginning on January 1, 2027. Each year thereafter, the wage is to be adjusted for cost-of-living.

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Cite: CA AB 2646; LABOR Code, Section 1208 (2 pages)
Enacted: 9/30/2026
Effective: 9/30/2026
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Colorado



ANALYSIS

LEGISLATION

New legal requirements restrict retention of employee identification documents

by Lindsay Rose, Fennemore Law

Colorado employers should review their Form I-9 and employment eligibility verification procedures following the enactment of House Bill (HB) 26-1283. The new law became effective on June 3, 2026, and added new restrictions on an employer's possession and retention of government-issued identification documents.

WHAT THE LAW SAYS

The new law, codified at C.R.S. § 8-2-124.5, generally prohibits an employer or its agent from demanding, confiscating, retaining, or otherwise requiring an employee, applicant, or other individual performing or seeking work to surrender a government-issued identification card. The law does, however, recognize the practical need for employers to review identification documents when completing Form I-9.

You may request and temporarily possess a government-issued identification card for purposes of verifying employment eligibility on Form I-9 or a successor form. If you take possession of an original identification card, you may retain the original only as long as necessary to complete the verification and make a permitted copy and never for more than 10 hours. You may retain a copy of the document in your employment records.

The law also permits retention of an identification document when otherwise required or permitted by state or federal law or regulation or under a signed judicial warrant.

NEW WRITTEN NOTICE REQUIREMENT

Of particular importance for routine hiring practices, Colorado employers must now provide a written notice when verifying an individual's employment eligibility. The notice must inform the individual of the law's restrictions on an employer's possession and retention of government-issued identification cards.

The notice must be provided in English and, if you know the individual's primary language is not English, in their primary language, as well. You must also obtain an acknowledgment from the individual and retain a record of the notice and acknowledgment in their employment records.

You should therefore incorporate the notice into your onboarding and Form I-9 procedures and should consider using the same process whenever a required Form I-9 reverification occurs.

WHAT EMPLOYERS SHOULD DO NOW

Colorado employers should review their onboarding and reverification procedures to confirm that:

- Originals of government-issued identification cards are returned promptly after review and any permitted copying;
- No original identification card is retained longer than necessary or, in any event, longer than 10 hours;
- The required written notice is provided as part of the employment eligibility verification process;
- Translated notices are provided when an employee's non-English primary language is known; and
- You retain documentation showing the notice was provided and acknowledged.

You should also train HR personnel and other employees responsible for Form I-9 compliance so the new Colorado requirements are incorporated into existing federal verification procedures.

You may consider using a notice that addresses the statutory requirements. Because legal requirements can change and may vary based on a company's circumstances, you shouldn't rely solely on artificial intelligence-generated content or information found online. The notice should be reviewed by legal counsel and tailored to your specific needs.

Colorado employers that haven't already updated their Form I-9 procedures should do so promptly. Employers with questions regarding HB 26-1283, employment eligibility verification, or implementation of the required notice should consult with employment counsel.

Excerpted from Mountain West Employment Law Letter
Shannon Pierce, Editor
Fennemore Law

New York

LABOR

Employee records

This enactment adds a new section, 210-b, to the Labor Law, providing access to personnel records for all private and public sector employees. The law includes the list of information that shall be included in a personnel record

for each employee and requires that an employer shall notify an employee within ten days of the placement of any information that may be used to negatively affect the employee's qualifications for employment, promotions, transfers, or compensation. The provisions guarantee an employee the ability to submit a written statement of position upon disagreement with any information contained in the personnel records and allows for remedies through the collective bargaining agreements. Violations of the law shall be punished by fines, and employers shall not discriminate against any employee who exercises rights pursuant to the provisions.

Cite: NY SO 3460 (3 pages)

Enacted: 9/9/2026

Effective: 11/8/2026

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ANALYSIS

LEGISLATION

New York dramatically expands employee access to personnel files

by Charles H. Kaplan, C.H. Kaplan Law PLLC

New York Governor Kathy Hochul signed NY Senate Bill S3460 (A.2107) on September 9, 2026. The new statute, which will become effective on November 8, 2026, gives current and former employees throughout New York State the right to obtain, review, and challenge records in their personnel files.

DETAILS

Modeled after Massachusetts' Personnel Records Law, the New York statute allows employees a fair opportunity to access their personnel records at least twice per year at all worksites in New York State. Employers will need to furnish records within five business days of receiving a written request from an employee.

The statute also requires employers to notify employees when negative information affecting qualification for employment, promotion, transfer, additional compensation, or the possibility that an employee will be subject to disciplinary action is filed against them. Under the new law, employees will be able to submit a written statement into their personnel file if they disagree with the file's content and to pursue an action for injunctive relief to remove false information. Pursuant to the new statute, employers must retain the complete personnel record of every employee, "without deletions or expungement of information," from the date of employment until three years after termination.

The statute empowers the New York Attorney General to bring an action against violators of the new law and subject them to a fine between $500 and $2,500. The new law also contains robust language that prohibits an employer from discharging, threatening, penalizing, or in any other manner discriminating or retaliating against any employees who exercise their rights under the statute.

The new statute expressly states that nothing in it shall be construed to supersede the terms of a union collective bargaining agreement—as long as such union contract provides at least substantially similar access by an employee to their personnel records as provided by the new law.

OPEN AND TRANSPARENT DIALOGUE

The recently signed law will result in New York emulating Massachusetts in recognizing employees' basic right to know what kinds of reports employers are filing about them in their personnel files and how this will affect their future employment prospects. The New York State Legislature, in its memorandum justifying the statute, contended that the new law aims to inspire an open and transparent dialogue between employees and their supervisors while providing some recourse for employees to remove knowingly false or defamatory statements from their records. The legislature also asserted that the new law will deter retaliatory use of personnel records, for example, to discredit or undermine employees who may later come into conflict with their employers.

When signing the bill into law, however, Hochul mandated a chapter amendment that will require the legislature to amend the new statute to clarify "that employers are not required to create a personnel file or produce new documents beyond the records they currently maintain" and "that personnel files only include records or documents used to determine an employee's qualifications for hiring, retention, promotion, transfer, additional compensation or disciplinary action."

EMPLOYER ACTION STEPS

Because the new statute will go into effect on November 8, 2026, you must act now to take the following steps:

- Review current personnel files to learn what documents they contain and whether those materials meet the new statute's broad definition of personnel records.
- Draft procedures to enable you to respond timely to an employee personnel record request.
- Develop a plan to enable management to provide timely notice to employees when negative information is placed in their personnel file.
- Establish access request procedures to respond within the five-business-day window.
- Update personnel policies to reflect the new statute's requirements.

Return to TOC

- If employees are covered by a collective bargaining agreement, consider negotiating with the union to amend the agreement to provide employee access to personnel records so the new law doesn't apply to employees covered by the agreement.
- Make sure you are retaining complete employee personnel records for at least three years after each employee's termination.

Excerpted from New York Employment Law Letter
Charles H. Kaplan, Editor
C.H. Kaplan Law PLLC

REGULATIONS

Alabama

LICENSURE

Continuing professional education

The State Board of Public Accountancy amended rules for the continuing professional education of public accountants, including sections governing applicability, hours required, calculation of hours of credit, qualifying programs, controls and reporting, and annual permits to practice with experience requirements.

Cite: Ala. Admin. Code r. 30-X-5 (Volume XLIV, Issue No. 11 AAM, 08/31/2026, page 53) (12 pages)

Adopted: 7/10/2026

Effective: 10/15/2026

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LICENSURE

Licensing for homebuilders

The Home Builders Licensure Board amended rules for license applications, with prohibitions against having outstanding business-related collection or foreclosure accounts, or outstanding judgments or liens, with specified exceptions.

Cite: Ala. Admin. Code r. 465-X-3-.04 (Volume XLIV, Issue No. 11 AAM, 08/31/2026, page 55) (18 pages)

Adopted: 8/20/2026

Effective: 10/15/2026

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Arkansas

WAGES

Minimum wage rules

The Department of Labor and Licensing amended rules pursuant to the Minimum Wage Act, including general rules, records to be kept by employers, employment of full-time students at sub-minimum wages, student learners and apprentices, employment of workers with disabilities, coverage and exemptions, wage payments, hours worked, overtime compensation, joint employment, enforcement, and the interpretation and application of rules.

Cite: 11 CAR § 11 (Arkansas Register, Vol. 51, Number 8, August 2026, page 3) (45 pages)

Adopted: 6/19/2026

Effective: 7/20/2026

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California

WORKERS' COMPENSATION

Medical treatment utilization schedule

The Division of Workers' Compensation amended rules to make evidence–based updates to Medical Treatment Utilization Schedules.

Cite: 8 CCR §§ 9792.23.7, 9792.23.10 (CRNR 2026, No. 33-Z, 08/14/2026, page 1099) (2 pages)

Adopted: 7/30/2026

Effective: 8/1/2026

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Colorado

LICENSURE

Dentists, dental therapists, and dental hygienists

The Colorado Dental Board adopted amendments to rules and regulations for dentists, dental therapists, and dental hygienists, regarding prescriptive authority, infection control, placement of interim therapeutic restorations, teledentistry, and other activities related to dentistry practice.

Cite: 3 C.C.R. 709-1 (49 CR 15, 08/10/2026, page 1100) (13 pages)

Adopted: 8/10/2026

Effective: 8/30/2026

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LICENSURE

Landscape architect rules and regulations

The State Board of Landscape Architects updated rules for applicants and licensees, including application requirements and criteria for the evaluation of education and experience.
Cite: 4 C.C.R. 729-1 (49 CR 16, 08/25/2026, page 320) (7 pages)
Adopted: 8/25/2026
Effective: 9/14/2026
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Florida

WORKERS' COMPENSATION

Medical authorization and billing

The Workers' Compensation Board amended rules for health care provider medical billing and reporting responsibilities and insurer authorization and medical bill review responsibilities, removing language regarding medications dispensed by a physician or other medical practitioner pursuant to a judicial order from the First District Court of Appeals.
Cite: Fla. Admin. Code R. 69L-7.730, 7.740 (52 faw 3619, 08/18/2026) (9 pages)
Adopted: 8/13/2026
Effective: 9/2/2026
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Kentucky

WORKERS' COMPENSATION

Medical fee schedule

The Department of Workers' Claims amended rules to update the Workers' Compensation Medical Fee Schedule for Physicians, adopting the 2026 Kentucky Workers' Compensation Schedule of Fees for Physicians, produced and published by FAIR Health, Inc.
Cite: 120 KAR 001:089E (53 Ky.R. 144, 08/01/2026) (4 pages)
Adopted: 6/26/2026
Effective: 6/29/2026
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WORKFORCE DEVELOPMENT

General provisions

The Department of Workforce Development adopted new rules for the operation of the Workforce Pell Program pursuant to minimum federal requirements established in 34 C.F.R. 690, et seq., necessary for the operation of the program.
Cite: 787 KAR 002:050E (53 Ky.R. 186, 08/01/2026) (3 pages)
Adopted: 6/30/2026
Effective: 6/30/2026
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Louisiana

WORKERS' COMPENSATION

Drug testing programs in job-related accident cases

The Office of Workers' Compensation Administration amended rules governing procedures related to testing for drug use in job related accident cases, including scientific and technical requirements, specimen collection procedures, laboratory analysis procedures, and the reporting and review of results.
Cite: LAC 40:I.Chapter 15 (LR 52:1353, 08/20/2026) (3 pages)
Adopted: 8/20/2026
Effective: 8/20/2026
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Maine

EMPLOYEE LEASING

Employer liability for contributions

The Bureau of Unemployment Compensation amended rules for employee leasing companies, making each individual client of an employee leasing company liable for the tax rate based on the client's individual experience rating, instead of a blended rate of all clients within defined units maintained by the company.
Cite: 12 172 CMR Ch. 25 (Weekly Notices of State Agency Rulemaking, 08/26/2026, page 5) (3 pages)
Adopted: 8/16/2026
Effective: 8/16/2026
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EMPLOYMENT SECURITY

Able and available requirements

The Bureau of Unemployment Compensation amended rules pursuant to legislative updates related to unemployment insurance eligibility conditions, including able and available guidelines.

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Cite: 12 172 CMR Ch. 9 (Weekly Notices of State Agency Rulemaking, 08/26/2026, page 4) (5 pages)
Adopted: 8/16/2026
Effective: 8/16/2026
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New Mexico

BENEFITS

Caregiver leave

The Department of Workforce Solutions amended rules to repeal provisions requiring employers to give written or electronic notice to an employee at the commencement of employment of the employee's rights to earned sick leave and provisions related to the enforcement of the Caregiver Leave Act.
Cite: 11.1.7 NMAC (37 n m reg 1020, 08/11/2026) (1 pages)
Adopted: 8/11/2026
Effective: 8/11/2026
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New York

WORKERS' COMPENSATION

Temporary payments

The Workers' Compensation Board adopted amendments to rules for temporary payments of compensation and medical treatment and care, including prescribed medicine under workers' compensation law.
Cite: 12 NYCRR 300.22 (N.Y. State Register, Vol. XLVIII, Issue 31, 08/05/2026, page 21) (5 pages)
Adopted: 7/17/2026
Effective: 1/1/2027
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Ohio

WORKERS' COMPENSATION

Firefighting safety

The Bureau of Workers' Compensation rescinded, amended, and added new rules providing guidance for personal protective clothing and equipment for firefighting, automotive fire apparatus, other equipment, and occupational safety and health for fire departments.
Cite: Ohio Admin. Code 4123:1-21 (Register of Ohio, August 2026) (9 pages)
Adopted: 8/18/2026
Effective: 9/1/2026
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Oregon

WAGES

Prevailing wage rate determination

The Bureau of Labor and Industries amended rules to update the prevailing wage rate determination for workers upon public works in each trade or occupation in the locality where work is performed, as published by the Bureau.
Cite: OAR 839-025-0700 (Oregon Bulletin, August 2026) (2 pages)
Adopted: 7/1/2026
Effective: 7/5/2026
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Texas

EMPLOYMENT SECURITY

Benefits, claims, and appeals

The Texas Workforce Commission adopted amendments to regulations relating to unemployment insurance pursuant to legislative changes regarding participation in reemployment services as a condition of eligibility for unemployment benefits.
Cite: 40 TAC §815.20, §815.28 (51 TexReg 5252, 08/07/2026) (11 pages)
Adopted: 7/21/2026
Effective: 8/10/2026
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Utah

BENEFITS

Childcare assistance

The Department of Workforce Services amended rules for childcare assistance provided to support employment for a qualified household with at least one minor dependent child who is a United States citizen or who meets qualified alien status, or to support education and training activities.
Cite: Utah Admin. Code r. 986-700 (26-15 utah bull 78, 08/01/2026) (22 pages)
Adopted: 5/15/2026
Effective: 7/1/2026
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Virginia

LICENSURE

Surgical assistants and technologists

The Board of Medicine amended rules to add a licensure by endorsement pathway for surgical assistants and surgical technologists, including requirements for initial licensure, requirements for the endorsement pathway, and procedures for renewal of licensure and certification.

Cite: 18VAC85-160-50, 18VAC85-160-51, 18VAC85-160-52, 18VAC85-160-60, 18VAC85-160-65 (43 va regs reg 82, 08/24/2026) (3 pages)

Adopted: 7/30/2026

Effective: 9/23/2026

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Washington

EMPLOYMENT SECURITY

Liability for self-insurers

The Department of Labor and Industries amended rules to implement legislation ensuring that decertified self-insurers remain liable for their self-insured claims and reimburse the department of labor and industries for all payments made.

Cite: WAC 296-15-121, 296-15-123, 296-15-151, 296-15-184 (WSR 26-15-062, 07/14/2026) (5 pages)

Adopted: 7/14/2026

Effective: 8/15/2026

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