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FLORIDA
EMPLOYMENT LAW LETTER

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Vol. 26, No. 6
August 2014

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LEGISLATION

Florida strengthens data breach notification law

by Lisa Berg
Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.

The Florida Information Protection Act of 2014 (FIPA), which replaces Florida's existing data breach notification law, took effect on July 1, 2014. FIPA, which is one of the toughest data security breach laws in the nation, requires covered entities to safeguard Florida residents' personal information, report breaches to the attorney general (AG), and comply with other obligations. Below is a brief summary of FIPA, including significant changes from the previous law.

New FIPA provisions

Who is a covered entity? A "covered entity" under FIPA refers to a sole proprietorship, partnership, corporation, trust, estate, cooperative, or other commercial entity that acquires, maintains, stores, or uses personal information.

Expanded definition of personal information. "Personal information" is defined as an individual's first name or initial and last name in combination with:

(1) A Social Security number (SSN);

(2) A driver's license or identification card number, passport number, or similar government document;

(3) A financial account number or credit or debit card number, in combination with any required security code or password that is necessary to permit access to the individual's financial account;

(4) Information about an individual's medical history, treatment, or diagnosis; or

(5) A health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual.

The expanded definition also includes a username or e-mail address in combination with a password or security question and answer that would permit access to an online account. FIPA does not apply to personal information that is encrypted, secured, or modified to remove elements that personally identify an individual or otherwise make the information unusable.

Definition of breach broadened from unauthorized acquisition to unauthorized access. "Breach of security" or "breach" means unauthorized accessing of electronic data containing personal information. Good-faith access of personal information by an employee or agent of a covered entity does not constitute a breach of security if the information isn't used for a purpose unrelated to the business or subject to other unauthorized use.

Notice period shortened from 45 to 30 days. An individual affected by a breach must be notified, via e-mail or letter, as expeditiously as practicable, but no later than 30 days after the breach was discovered or the entity has reason to believe that a breach occurred, unless notification is delayed at the request of law enforcement for investigative purposes or for other good cause. A third-party agent that maintains a security system for a covered entity has no more than 10 days under FIPA to report a data breach to the affected entity.

Notice isn't required if, after conducting an appropriate investigation and consulting with law enforcement agencies, the covered entity reasonably determines that the breach hasn't and likely won't result in identity theft or any other financial harm to the individuals whose personal information was accessed. That determination must be documented in writing, retained for at least five years, and provided to the Florida Department of Legal Affairs (i.e., the AG's office) within 30 days after the determination was made.

Notice to AG. This is a significant change in the law. If the breach affects 500 or more Floridians, notice must be provided to Florida's AG within 30 days. A 15-day extension of the 30-day deadline may be obtained upon a showing of good cause. If the breach affects 1,000 or more persons, another notice must be provided to all nationwide consumer credit reporting agencies.

Also, FIPA requires the covered entity, upon request, to provide the AG with documentation of the breach, including copies of any police reports, incident reports, forensic reports, internal policies on data breaches, and steps that have been taken to rectify the breach.

Other affirmative obligations. Covered entities must take "reasonable measures" (not defined in the law) to protect and secure personal information and dispose of records containing personal information (whether they're on paper or in electronic format) once the records must no longer be retained. This requirement includes "shredding, erasing, or otherwise modifying the personal information in the records to make it unreadable or undecipherable through any means." But be careful: Employers have a duty to maintain records that are subject to a litigation hold.

Penalties for violations. FIPA does not create a private cause of action. Rather, the statute authorizes the AG to bring an enforcement action against a covered entity that commits a statutory violation and levy civil penalties of up to $500,000.

Takeaway

Employers that maintain personal information on Florida residents should:

- Implement policies and procedures to safeguard the personal information of employees, customers, and other individuals.
- Train employees to follow steps that ensure data security.
- Purchase data security software.
- Create a plan to respond to and report data breaches or violations of security protocols.
- Consult with legal counsel if a suspected breach occurs.

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GOVERNMENT CONTRACTORS

Florida AG clarifies state contractors' duty to comply with public records law

by Rob Sniffen and Jeff Slanker
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The Florida Attorney General's (AG) Office has released guidance in the form of an advisory legal opinion on compliance with public records law for government contractors. The opinion provides crucial clarification about the circumstances under which the public records law applies to private entities that perform services for the state pursuant to a government contract.

Florida's public records law

Florida's public records law, which dates to 1909, requires that certain documents and records kept by state agencies be made available to the public for inspection and review. Specifically, documents or records made or received by state agencies in the course of conducting official business must be available to the public upon request. Such records can include everything from written documents to e-mails, tapes, photographs, film, sound recordings, and computer-generated information.

State legislators revised Florida's public records law when they passed Section 119.0701 of the Florida Statutes during the 2013 legislative session. That portion of the law "requires public agency contracts for services performed on behalf of the agency to contain contract provisions clarifying the public record responsibilities of the contractor." The public records law applies to contractors, just as it does to public agencies, if the contractor is acting on behalf of an agency in providing services under a government contract. Consequently, a covered contractor must take the appropriate steps to comply with the public records law and maintain records in a manner that allows the public to request and inspect them.

Question resolved

The basic question the AG's advisory legal opinion resolves is, when does the public records law trigger a government contractor's obligation to comply with Chapter 119 of the Florida Statutes? The pertinent

provision of Chapter 119 addressed in the opinion is Section 119.0701(1)(a), which provides that government contractors that are "acting on behalf of the public agency" must comply with the public records law. Ultimately, therefore, government contractors must determine if and when they are "acting on behalf of the public agency" with which they have a contract.

The AG's advisory opinion addresses whether the phrase "acting on behalf of the public agency" is driven by the type of services the contractor is providing to the agency or whether a government contract automatically results in the contractor being subject to Florida public records law regardless of the nature of the services it performs.

AGO 2014-06 was issued by AG Pam Bondi in response to an inquiry from state Senator Wilton Simpson (R-New Port Richey) about possible amended legislation clarifying when a government contractor is under a duty to comply with Florida's public records law. The advisory opinion notes that if a contractor is acting on behalf of a public agency, it is essentially taking the place of, or standing in the shoes of, the agency, and therefore must comply with the same public records requirements the public agency would be subject to if it was performing the service. The advisory opinion indicates that covered contractors include companies that have a contract to perform certain services for the state government or its agencies in addition to companies that provide services in a manner that requires them to act on behalf of that agency.

For example, the AG's opinion notes that a Florida court found that the Salvation Army, which had a contract to provide probation services on behalf of a county, took the place of the county and acted on its behalf in providing the probation services. Thus, the Salvation Army was required to comply with the public records law when it performed probation services and ensure that the public had access to documents or records it created or received while fulfilling its contractual services. As the opinion explains, courts look to "whether a private entity has been delegated [tasks] that . . . would otherwise be an agency responsibility in order to determine whether the private entity is 'acting on behalf of' the public agency within the scope of the statute."

Employer takeaway

Private entities that are performing services under a government contract should take note of the details and findings of this advisory opinion, which can be found at http://www.myfloridalegal.com/ago.nsf/Opinions/FFA361674B780AE085257CFD00650CCB. Although AG advisory opinions aren't binding, they represent persuasive authority for determining the legal merits of an argument. If you are a private entity that acts on behalf of a public agency, take special care to ensure that all paper or electronically generated documents (including e-mails) created or received in connection with the performance of your contractual services are maintained and preserved so that the public has access to them. That can be a complicated undertaking, to say the least.

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AGENCY ACTION

Perez applauds mayors' call for higher minimum wage. U.S. Secretary of Labor Thomas E. Perez has spoken out in favor of a resolution presented in June at the United States Conference of Mayors in Dallas calling for an increase in the federal minimum wage. A majority of the mayors voted to adopt the resolution on June 23. Before the vote, Perez voiced his support for the resolution, calling on Congress to raise the minimum wage and urging states and local governments to do the same. President Barack Obama is pushing legislation to raise the federal minimum wage from $7.25 to $10.10 per hour. "This resolution, coupled with grassroots-powered action nationwide, is part of a groundswell that proves change doesn't always come from Washington; sometimes it comes to Washington," Perez said in a statement released on June 19.

DOL awards grants for services to help offenders get jobs. The U.S. Department of Labor (DOL) has awarded $74 million in grants to 37 community service organizations to provide employment, training, and support services to successfully reintegrate formerly incarcerated adults and youth involved in the juvenile justice system into their communities. Grantees are to provide a range of services, including case management, mentoring, education, and training that leads to industry-recognized credentials. Twenty-one grants, totaling more than $44 million, are being awarded for the second round of the Face Forward initiative, which combines what has been found to be promising workforce and juvenile justice strategies to improve participants' chances of success. The remaining funding, totaling $30 million, goes to 17 organizations through the Training to Work—Adult Reentry program to help men and women participating in state or local work-release programs gain job skills necessary for in-demand occupations.

OSHA enters alliance to protect temporary workers. The Occupational Safety and Health Administration (OSHA) signed an alliance in May with the American Staffing Association (ASA) to work together to further protect temporary employees from workplace hazards. Through the alliance, OSHA and the ASA will conduct outreach to workers about their rights and work to educate staffing firms and their clients on their responsibility to protect workers under the Occupational Safety and Health Act (OSH Act). The partnership will work together to distribute OSHA guidance and additional information on the recognition and prevention of workplace hazards and to further develop ways of communicating such information through print and electronic media, electronic assistance tools, and websites to staffing firms, host employers, and temporary workers. ✤

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FAMILY AND MEDICAL LEAVE

DOL, White House propose changes to federal family leave laws

One year ago, the U.S. Supreme Court struck down the provision of the Defense of Marriage Act (DOMA) that defined marriage as being solely between one man and one woman for purposes of federal law. The decision changed the application of every federal law that relied on the DOMA definition of "spouse." As a result of the Court's ruling, same-sex couples married in the states and the District of Columbia where such unions are legally recognized became eligible for equal benefits under more than 1,000 federal laws and regulations.

Because same-sex marriage still isn't legally recognized in all states, soon after the Court's decision, federal agencies such as the IRS and the U.S. Citizenship and Immigration Services (USCIS) released clarifying statements that they would observe same-sex marriages based on the "state of celebration." In other words, if a same-sex couple married in a state where the union is legal, then they would be eligible for related federal benefits regardless of the law of the other states in the nation.

However, uncertainty still remained for administration of the Family and Medical Leave Act (FMLA), whose regulations define a covered "spouse" as "a husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides."

Proposed rule would bring FMLA in line with other laws

The U.S. Department of Labor (DOL) has now announced a proposed rule that adopts the "state of celebration" rule for FMLA administration, bringing the Act in line with other federally administered benefits and eliminating a source of confusion for employers. If adopted, the amended regulations would allow all legally married couples to be treated consistently under the FMLA regardless of where they live, whether they relocate, or whether they telecommute.

The proposed definition of spouse also would expressly reference the inclusion of same-sex and common-law marriages as well as marriages entered into abroad that could have been entered into in at least one state.

The DOL has released a fact sheet for the proposed rule on its website, www.dol.gov, including information on submitting comments on the rule. Comments must be received on or before August 11.

Obama criticizes lack of paid federal family leave

The DOL's proposed FMLA rule was announced just before the first annual White House Summit on Working Families. During the summit, which focused on a variety of flexible workplace policies, such as telecommuting, job sharing, and flexible hours, President Barack Obama addressed another workplace leave topic—paid family and maternity leave. "There is only one developed country in the world that does not offer paid maternity leave—and that is us," the president said.

In his remarks at the summit, President Obama praised the cities, states, and businesses that have enacted paid family leave laws and policies and then criticized federal congressional inaction on other workplace laws, such as a federal minimum wage increase and the Pregnant Workers Fairness Act, which would require employers to provide reasonable accommodations to pregnant workers.

The amended regulations would allow all legally married couples to be treated consistently under the FMLA.

Federal legislation that would provide up to 12 weeks of paid leave has been introduced. However, the president has not specifically endorsed the bill. Under the proposed Family and Medical Insurance Leave Act (FAMILY Act), qualifying workers would be eligible to collect up to two-thirds of monthly wages (up to $1,000 per week) while tending to family and personal medical conditions similar to those currently covered by the FMLA.

President promises executive action whenever possible

During the summit, the president also remarked that "as we're waiting for Congress, whenever I can act on my own, I'm going to," citing examples such as the minimum wage increase for employees of federal contractors, his Executive Order preventing retaliation against federal workers who share salary information, and the passage of the Affordable Care Act (ACA).

Though White House staff are currently entitled to six weeks of paid family leave, the president is unable to extend that leave to other federal workers without congressional action. Instead, he issued a memorandum directing federal agencies to expand flexible workplace policies for their workers "to the maximum possible extent." The memorandum also grants federal workers the "right to request" flexible work arrangements without fear of retaliation. ✤

FMLA RIGHTS

Administration of FMLA leave starts with a well-written policy

by Andy Rodman
Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.

Without a doubt, administering leave under the Family and Medical Leave Act (FMLA) can be an administrative hassle—and, at times, downright confusing. Many employers forget, however, that FMLA administration starts with the development and implementation of a written policy. If your FMLA policy isn't clear and comprehensive, you're creating potential problems for yourself from the get-go. The School District of Hillsborough County learned that lesson the hard way when the federal court in Tampa scrutinized its FMLA policy and rejected the district's interpretation of it.

Teacher's FMLA leave timeline

Elena Casas began working as a science teacher at Jennings Middle School on September 28, 2009. A few days later, on October 1, she fainted at school. She applied for FMLA leave on October 20, 2009, submitting a medical certification form in which she requested three weeks of leave. The school district granted her request retroactive to October 2. At the end of three weeks, she returned to work.

Beginning on February 8, 2010, Casas was again absent from work due to her medical conditions. She requested additional FMLA leave on February 19. On March 18, the principal wrote her a letter explaining that her FMLA leave would expire on April 6. Casas, however, believed that her leave was set to expire at the end of May. On April 6, HR granted her a "brief extension" of her FMLA leave through April 19, which was the end of spring break.

On April 17, Casas e-mailed the principal, saying that her medical issues persisted and she would be traveling to Puerto Rico to attend her grandfather's funeral. She explained that she would try to seek a second opinion from a doctor in Puerto Rico, and she pled with the principal to allow her to keep her job. She also stated in the e-mail that she would call from Puerto Rico to inform the school district of her return date.

Casas didn't return to work on April 19, so the principal wrote her another letter, this time asking her to submit a letter of resignation. Casas complied, and the school district received her resignation letter on April 23, 2010.

Teacher files suit

Casas filed suit, alleging, among other claims, that the school district interfered with her FMLA rights by refusing to allow her to take 12 weeks of FMLA leave. The school district filed a summary judgment motion seeking dismissal of the case before trial.

The school district argued that Casas wasn't eligible for FMLA leave when she resigned on April 19, 2010, because she had exhausted her 12 weeks of leave during the applicable

WORKPLACE TRENDS

Employers spending more on HR technology. A survey from professional services company Towers Watson finds that companies around the world are planning to increase and redirect their investments in HR technology as they embrace talent management solutions, HR portals, software-as-a-service (SaaS) systems, and mobile applications. The survey also showed that about one in three companies plans to change the HR structure in an effort to improve both efficiency and quality. The survey found a continued increase in the use of SaaS systems for core HR and talent management technologies, further adoption of mobile technologies, and utilization of HR portals.

Hiring confidence up for third quarter. An employment outlook survey from ManpowerGroup reflects continued hiring confidence among U.S. employers for the third quarter of 2014, as U.S. employers report a seasonally adjusted net employment outlook of +14%. This is the strongest net employment outlook since the second quarter of 2008. Of the more than 18,000 U.S. employers surveyed, 22% anticipate an increase in staff levels in their third-quarter hiring plans, while anticipated staff reductions remain among the lowest in survey history at 4%. Seventy-one percent of employers expect no change in their hiring plans. The final 3% of employers are undecided about their intentions. The third-quarter research shows that U.S. employers expect hiring intentions to remain relatively stable quarter over quarter across all regions. Among the 50 states, employers in Alaska, Delaware, Idaho, Michigan, Minnesota, and North Dakota indicate the strongest net employment outlooks, while Florida, Illinois, Kansas, Mississippi, Nevada, and New Mexico project the weakest.

Survey finds workers giving bosses high grades. If workers filled out report cards for their bosses, most (63%) would dole out A's or B's, according to a survey from CareerBuilder. Just 14% said they would give the boss a D or F. Workers who interact more frequently with their bosses tend to rate their performance better than those who keep their distance, according to survey findings. Thirty-one percent of workers who interact several times a day in person with their boss assign them an A compared to just 17% of workers who interact with their boss once a day or less. The study also showed a correlation between positive ratings of bosses and open communication even if that communication doesn't take place in person. Twenty-five percent of workers said their boss typically communicates with them via text or instant message. Of those employees, 30% assign an A to their boss's performance. ✤

12-month period. Specifically, the district argued that the relevant 12-month period for FMLA purposes coincided with its fiscal year, which runs from July 1 through June 30. According to the district, Casas used her 12 weeks of FMLA leave between October 2, 2009, and April 6, 2010.

Casas, on the other hand, argued that the 12-month period restarted at the beginning of the 2010 calendar year. As a result, she hadn't used all of her FMLA leave by April 19, 2010.

What did the district's FMLA policy say?

For the court, the question turned on the correct method for computing the school district's 12-month period. The court began its analysis by recognizing that under the FMLA regulations, an employer is permitted to choose among the following methods for determining the 12-month FMLA calculation period:

(1) The calendar year;

(2) Any fixed 12-month period, such as a fiscal year;

(3) The 12-month period measured forward from the date the employee first takes FMLA leave; or

(4) A rolling 12-month period measured backward from the date the employee first uses FMLA leave.

The regulations also explain that "if an employer fails to select one of the options[,] . . . the option that provides the most beneficial outcome for the employee will be used."

Next, the court looked at the school district's FMLA policy to ascertain its chosen method of computing the 12-month period. The court deemed the policy ambiguous because it referenced the calendar year method *and* the fiscal year method.

In light of the ambiguity in the school district's FMLA policy, the court adopted the reasoning of a few other federal courts that have found an employer's selection of a calculation method "must be an open rather than a secret act, necessarily carrying with it an obligation to inform its employees" of the chosen method. The court found that Casas was entitled to the more advantageous method of calculating the 12-month period, which in her case was the calendar year. The school district's motion for summary judgment on her FMLA interference claim was denied. *Casas v. School District of Hillsborough County,* M.D. Fla. (July 2, 2014).

Takeaway

This one is easy. Review your FMLA policy to ensure that you've clearly defined your 12-month calculation period. If you haven't revised your policy in a while, it may not even address the "newest" reasons for FMLA leave: time off for qualifying exigencies and to care for covered servicemembers with serious injuries or illnesses.

You should also ensure that your policy accurately reflects your current rules for allowing employees to substitute paid leave for FMLA leave. If you read your policy carefully, you may be surprised what you find.

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HEALTH INSURANCE

Supreme Court excuses some employers from ACA contraceptive mandate

The U.S. Supreme Court reviewed the Affordable Care Act (ACA) again this term, and in Burwell v. Hobby Lobby Stores, Inc., it held that the ACA's contraceptive mandate violates the Religious Freedom Restoration Act of 1993 (RFRA) as it is applied to "closely held corporations." According to the Court, in a divisive 5-4 opinion, the mandate "substantially burdens the exercise of religion."

The contraceptive mandate

Under the ACA (and related Department of Health and Human Services (HHS) regulations), many health insurance plans must cover certain preventive services for women without cost sharing (e.g., coinsurance, copayments, and deductibles). The ACA didn't provide a list of these preventive services, but HHS did. Such services include contraceptive methods and counseling or, more specifically, "all Food and Drug Administration [(FDA)] approved contraceptive methods, sterilization procedures, and patient education and counseling for all women with reproductive capacity."

However, there are exceptions to the mandate. For example, the requirement to cover such preventive services doesn't apply to grandfathered health plans or to certain religious employers. Additionally, HHS has provided an accommodation to religious nonprofit organizations with religious objections to providing such contraceptive coverage.

Case background

The contraceptive mandate has been the subject of quite a few lawsuits across the country since the ACA became law. In the *Hobby Lobby* case, the Supreme Court combined two cases challenging it—*Burwell v. Hobby Lobby Stores, Inc.* and *Conestoga Wood Specialties Corp. v. Burwell.* In both cases, the owners of closely held (i.e.,

family) for-profit corporations argued that it would violate their religion to facilitate access to certain contraceptive drugs or devices.

More specifically, David and Barbara Green and their three children are Christians who own and operate two family businesses. One is Hobby Lobby, a nationwide arts-and-crafts chain, and the other business operates 35 Christian bookstores. The companies are closely held, the family retains exclusive control of both of them, and they stress that they strive to operate the companies "consistent with Biblical principles."

Norman and Elizabeth Hahn and their three sons exercise sole ownership of their closely held woodworking business, Conestoga Wood Specialties. They also control the company's board of directors and hold all of its voting shares. The Hahns are devout members of the Mennonite Church and believe they are required to run their business "in accordance with their religious beliefs and moral principles."

Both families believe that human life begins at conception and objected to four of the FDA-approved contraceptive methods that may operate after the fertilization of an egg. The methods include two forms of emergency contraception (often referred to as "morning after" pills) and two types of intrauterine devices. The families filed separate actions challenging the contraceptive mandate based on the RFRA and the Free Exercise Clause of the First Amendment to the U.S. Constitution (which the Supreme Court didn't address).

What is the RFRA?

The RFRA bars the federal government from taking any action that substantially burdens the exercise of religion, unless the action is the least restrictive means of serving a compelling government interest. In other words, to combat someone's claimed exemption under the law, the government must show that the application of the burden to that person:

(1) Furthers a compelling government interest; and

(2) Is the least restrictive means of furthering that interest.

Court's ruling

Applicability of the RFRA. The Supreme Court first addressed whether the RFRA applies to regulations governing the activities of for-profit companies like Hobby Lobby and Conestoga. The Court noted that although HHS argued that the companies couldn't sue because they are for-profit companies and the owners couldn't sue because the regulations apply only to the companies themselves, this view would leave the owners with the difficult choice of either giving up the right to seek protection of their religious liberty from the courts or forgoing the benefits they receive from operating as corporations. Further, according to the Court's interpretation, Congress included corporations within the RFRA's definition of "persons" and thus intended to protect the rights of people associated with corporations, including shareholders, officers, and employers (i.e., the people who own and control them).

The Supreme Court concluded that the contraceptive mandate imposes a substantial burden on the exercise of religion.

The Court next discussed HHS's suggestion that applying the RFRA to for-profit corporations could lead to "divisive, polarizing proxy battles over the religious identity of large, publicly traded corporations such as IBM or General Electric." The Court stated that the cases at issue in *Hobby Lobby* don't involve publicly traded corporations, and it found it unlikely that the "corporate giants" HHS referred to will often assert RFRA claims. The opinion then said that there was no reason to consider the RFRA's application to such companies and made the distinction that the companies in *Hobby Lobby* are closely held corporations that are each owned and controlled by members of a single family and that no one has disputed the sincerity of their religious beliefs.

"Substantial burden." The Court then addressed whether the contraceptive mandate "substantially burdens" the exercise of religion and concluded that it did. It noted that if the companies don't comply with the mandate, they could be taxed $100 per day for each affected individual (which for Hobby Lobby could amount to $1.3 million per day or $475 million per year). The Court also said that although the companies could avoid these assessments by dropping healthcare insurance coverage entirely, they might open themselves up to penalties under the ACA's employer shared responsibility provisions (which the Court observed could lead to roughly $26 million a year for Hobby Lobby).

Since the Supreme Court concluded that the contraceptive mandate imposes a substantial burden on the exercise of religion, it next decided whether HHS showed the mandate is both (1) in furtherance of a compelling government interest *and* (2) the least restrictive means of furthering that interest. The Court assumed that the interest in guaranteeing cost-free access to the four challenged contraceptive methods was compelling within the RFRA's meaning and moved on to discuss the least-restrictive-means standard.

The Court concluded that the standard wasn't satisfied and that HHS didn't show it lacks other ways of achieving its goal of contraceptive coverage without imposing a substantial burden on the exercise of religion. The Court then appeared to offer a couple of

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suggestions. First, it noted that the government could assume the cost of providing the contraceptives to women who are unable to obtain coverage because of their employer's religious objections. Second, it suggested that HHS could extend the accommodation it has already established for religious nonprofit organizations to certain for-profit employers with religious objections to the contraception mandate. The Court stated that this accommodation doesn't impose on the plaintiffs' religious beliefs that providing coverage for certain contraceptives violates their religion.

Clarifications

The Court also provided a couple of important clarifications. It made clear that its decision concerns only the contraceptive mandate. It stated the decision doesn't hold that all mandates must necessarily fall if they conflict with an employer's religious beliefs. (The Court gave the example of mandates regarding vaccinations and blood transfusions.) It also stressed that the ruling doesn't allow employers to illegally discriminate and claim they were doing so as part of a religious practice.

Employer takeaways

The Supreme Court's decision isn't a broad employer exemption from ACA requirements. It relates only to the contraceptive mandate and applies only to closely held companies whose owners can show they have sincere religious objections to the mandate. You should be watching out for HHS guidance that will address this ruling and presumably provide applicable for-profit companies that have religious objections to the contraceptive mandate with some type of procedure for opting out of it. ✤

FLORIDA EMPLOYMENT LAW LETTER (ISSN 1041-3537) is published monthly for $447 per year plus sales tax by **BLR®—Business & Legal Resources,** 100 Winners Circle, Suite 300, P.O. Box 5094, Brentwood, TN 37024-5094.

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