

The



PRACTICAL GUIDANCE

Journal

REPRODUCTIVE HEALTHCARE ISSUES FOR EMPLOYERS

The Impact of State Laws
Criminalizing Abortion

Insurance Issues
after *Dobbs*

FALL 2022

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Evandro C. Gigante PROSKAUER ROSE LLP

Employers React to the *Dobbs* Opinion Podcast

This podcast episode discusses the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, as decided by the Court on June 24, 2022.¹



IN TEXAS AND OKLAHOMA, ABORTION IS NOW A CRIME. In other states, it remains legal. For companies working across state lines, the variances from state to state have created many employment issues that immediately require

counsel from Labor & Employment (L&E) attorneys. In this episode, Proskauer Labor & Employment partner Evandro C. Gigante discusses sensitive employment issues following the decision in *Dobbs*.

¹. *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228 (2022).

PRACTICAL GUIDANCE PODCAST



Evandro C. Gigante
Proskauer

Dobbs L&E Impacts: Employers React to the *Dobbs* Opinion

Practical Guidance Podcast

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Related Content

For guidance on meeting medical recordkeeping and confidentiality requirements under several federal employment-related statutes, see

CONFIDENTIAL MEDICAL INFORMATION IN THE EMPLOYEE LEAVES AND DISABILITY CONTEXT

For an overview of the Pregnancy Discrimination Act, see

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For a discussion of the obligations imposed on individuals and their employers when an accommodation is sought for religious beliefs, see

RELIGIOUS ACCOMMODATION REQUIREMENTS

For advice on counseling employers on the risks associated with employee social media use, see

SOCIAL MEDIA ISSUES IN EMPLOYMENT: COUNSELING EMPLOYERS ON KEY SOCIAL MEDIA ISSUES

For a look at whether expenses related to abortion may be covered by pre-tax medical reimbursement accounts, see

POST-DOBBS, MAY ABORTIONS BE REIMBURSED ON A TAX-FREE BASIS FROM A HEALTH FSA, AN HRA, OR AN HSA?

For a report on how restrictions on abortion access in light of the Dobbs ruling might impact collective bargaining, see

ABORTION ACCESS EMERGING AS UNION ISSUE POST-ROE

Here is an excerpt from the podcast:

From an employment perspective, I've been looking at it mainly through the lens of employers looking to navigate the *Dobbs* decision, and again, avoid the risk of claims of discrimination or other mistreatment by employees based on whatever policies or procedures the company is planning to put into place. So part of that of course entails whether and how an employer can put into place policies that provide certain benefits for employees looking to have an abortion, but are unable to do so in the state in which they live and work. And likewise, whether providing those benefits, either one, could create some risk of a potential discrimination claim. Or two, just in terms of the employer's communication of its position and stance on abortion or employees doing the same, could create risk within the workplace involving claims of discrimination or harassment arising out of things such as pregnancy, religion, or all the other protected categories that touch upon this particular topic.

For additional guidance on issues related to social media concerns, employers operating across many states, and other *Dobbs* decision issues, follow the link below to listen to the complete podcast. [L](#)

Evandro C. Gigante is a partner in the Labor & Employment Law Department at Proskauer Rose LLP, and co-head of the Employment Litigation & Arbitration group and the Hiring & Terminations group. He represents clients on a variety of labor and employment matters, including allegations of sexual harassment, race, gender, national origin, disability, and religious discrimination. Evandro also counsels employers through reductions-in-force and other sensitive employment issues. Most recently, Evandro has developed expertise on, and represented clients in, various COVID-19 related matters, including those involving compliance with health and safety standards, the need to provide workplace accommodations and the ability to test and/or vaccinate the workforce.



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