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Legal Compliance Issues in a Post-*Dobbs* World: Employer, Fiduciary, and Other Nonprofit Considerations in an Evolving Legal Landscape

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Agenda

- Post-*Dobbs* Legal Landscape
- Anti-Discrimination and Other Employment Issues
- Board Considerations
- Impact on Federal and Local Tax Exemption
- Indemnification



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DON'T PANIC!



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Overview of the *Dobbs* Decision

- ***Dobbs v. Jackson Women's Health Organization*** challenged 2018 Mississippi law that banned virtually all abortion after 15th week of pregnancy
- **HOLDING:** The Constitution does not expressly or implicitly protect the right to choose abortion and leaves it to the states to regulate
 - Laws regulating abortion are entitled to a "strong presumption of validity" and will be upheld unless there is no "rational basis on which the legislature could have thought [the law] would serve legitimate state interests"
 - *Roe v. Wade*; *Planned Parenthood of Southeastern Pennsylvania*, etc. overturned
- **PRACTICAL RESULT:** States allowed to ban abortion, trigger laws and pre-*Roe* statutes in effect, rapidly shifting legal landscape



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Scope of Restrictive State Laws (as of Jan 10, 2023)



*Source: New York Times



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Scope of Restrictive State Laws (as of Jan 10, 2023), *con't*

▪ Access Restrictions:

- 25 states have laws that restrict access to abortion prior to viability
- 16 states have criminal laws that prohibit nearly all abortion (4 currently subject to injunctions)
- 3 states have criminal laws that prohibit abortion after the detection of a fetal heartbeat (6 weeks) (2 currently subject to injunctions)
- 2 states prohibit abortion after 15 weeks
- 4 states prohibit abortion after 20 weeks, one of which is currently subject to an injunction.
- Several states have multiple prohibitions (e.g., a trigger law that prohibits all abortions and a higher threshold based on the gestational age of the fetus)

- Civil Laws: Oklahoma and Texas allow a range of private citizens to file suits to enforce violations and recover civil penalties



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