

NYC Employers, Get Out Your Handbooks: Reproductive Health Choices Are A New Protected Category

Earlier this year, the New York City Council passed an amendment to the New York City Human Rights Law, adding “sexual and reproductive health decisions” to the list of protected categories under the law. Effective May 20, 2019, the law prohibits NYC employers with four or more employees from discriminating against an employee on the basis of an employee’s “sexual and reproductive health decisions,” defined as “any decision by an individual to receive services, which are arranged for or offered or provided to individuals relating to sexual and reproductive health, including the reproductive system and its functions.”

“Sexual and Reproductive Health Decisions”

The law provides several examples of services related to sexual and reproductive health decisions:

- Fertility-related medical procedures;
- Family planning services and counseling;
- Access to all medically approved birth control drugs and supplies;
- Emergency contraception;
- Sterilization procedures;
- Pregnancy testing;
- Sexually transmitted disease testing and treatment;
- Abortion procedures; and
- HIV testing and counseling.

Failure to Comply with the Law

An employer who fails to comply with the law faces these potential penalties:

- Fines up to \$250,000;
- Hiring, reinstating, or promoting the complainant;
- Awarding back or front pay;
- Compensatory damages;
- Punitive damages; and
- Attorneys’ fees and costs.

Takeaways for Employers

To ensure compliance with the new rules, employers should take the following steps:

- Update their anti-discrimination policies, including employee handbooks, to reflect the new protected class; and
- Train and inform all human resources personnel about the new requirements under the law.

This alert is for general informational purposes only and should not be construed as specific legal advice. If you would like more information about this alert, please contact one of the following attorneys or call your regular Patterson contact.

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