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Memo

To: Fire Protection District and Other Public & Private Employer Clients

From: Stobbs, Sinclair & Livingstone, Ltd.

Re: COVID-19 Developments

Late last week, the Illinois General Assembly passed and sent to the Governor, Senate Bill 1169 which amends the Health Care Right of Conscience Act to add a new Section 13.5 which provides that it is not a violation of the Act “…for any person or public official, or any public or private association, agency, corporation, entity, institution, or employer, to take any measures or impose any requirements…intended to prevent contraction or transmission of COVID-19…”.

This bill is expected to be sent to the Governor shortly and that it will be approved by the Governor. The legal effect, unless successfully challenged and overturned through a court proceeding, will be the removal of a now often made argument that under the Health Care Right of Conscience Act vaccination against COVID-19 cannot be mandated by employers. This will not, however, remove any exemptions for sincerely held religious beliefs or medical contraindications afforded under federal law.

In related developments, the U.S. District Court for the Northern District of Illinois has preliminarily rejected a challenge by Chicago firefighters contesting the city’s requirement regarding reporting of COVID-19 vaccination status. In its decision, the District Court relied on a previous decision of the U.S. Court of Appeals for the Seventh Circuit (which includes Illinois) that a vaccination mandate by Indiana University was valid. In a federal case arising in Maine, the U.S. Supreme Court has refused to take up an emergency appeal of a decision of the U.S. Court of Appeals for the First Circuit which affirmed a decision of the U.S. District for the District of Maine upholding a COVID-19 vaccination requirement for healthcare employees.

These legislative and judicial developments are making it increasingly clear that vaccine mandates related to communicable diseases such as COVID-19 are valid and will be upheld as a reasonable and appropriate public health measure.

We will continue to monitor developments and advise you regarding changes as they occur.