ILLINOIS’ FIREARM CONCEALED CARRY ACT AND ITS IMPACT ON COMMUNITY COLLEGES
Background and Purpose of the Law

- The Illinois Firearm Concealed Carry Act became law on July 9, 2013.

- The Act allows qualified and licensed individuals to carry concealed handguns outside of an individual’s home, with limited exceptions.

- Handguns are permitted for concealed carry. Explicitly excluded are stun guns, tasers, machine guns, short barrel rifles/shotguns, pneumatic guns, spring guns, paintball guns and BB guns.

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Qualifications to Obtain a Concealed Carry License

- A concealed carry license is valid for 5 years.
- Applicant must be at least 21 years of age;
- Applicant must have a currently valid Firearm Owner’s Identification Card (FOID Card) and must not be prohibited under federal law from having a firearm;
- Within 5 years of application, the applicant must not have been convicted or found guilty of (a) a misdemeanor involving the use or threat of physical force or violence; or (b) have two or more violations related to driving while under the influence of drugs or alcohol;

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Qualifications to Obtain a Concealed Carry License

- Applicant must not have been be the subject of a pending arrest warrant, prosecution, or proceeding for an offense or action that could lead to disqualification to own or possess a firearm;

- The Applicant must not have been in a drug or alcohol treatment for five years before license application;

- The Applicant must have completed firearms training and any education component required under Section 75 of the Act; and

- The Applicant must not pose a danger to himself, herself, or others, or a threat to public safety.

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Places Where Concealed Carry Concealed Firearms Are Not Permitted

- Not permitted in the below relevant venues:
  - Public and private schools;
  - Child care facilities;
  - Public gatherings or special events requiring permits on property open to the public;
  - Public parks and playgrounds and public athletic facilities;
  - Stadiums;
  - Libraries;
  - Places prohibited by federal law;

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Places Where Concealed Carry Concealed Firearms Are Not Permitted

- College and University property defined as:
  - “Any building, classroom, laboratory, medical clinic, hospital, artistic venue, athletic venue, entertainment venue, officially recognized university related-organization property, whether owned or lease, any real property, including parking areas, sidewalks, and common areas under the control of a public or private community college, college, or university.”
Parking Lot Areas May Allow for Limited Concealed Carry

- Persons shall still be permitted to carry a concealed firearm on or about his or her person within a vehicle into the parking area of a prohibited place.

- A person licensed to carry a concealed firearm must store a firearm or ammunition concealed in a case within a locked vehicle or locked container out of plain view within the vehicle in the parking area.

- A licensee may exit a vehicle and carry a concealed firearm in the immediate area surrounding his or her vehicle within a prohibited parking lot area only for the limited purpose of storing or retrieving a firearm within the vehicle's trunk, provided the licensee ensures the concealed firearm is unloaded prior to exiting the vehicle.

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Specific Concerns for Colleges and Universities

- The Act specifically provides that colleges and universities are places where people cannot carry concealed weapons:

  - “A licensee under this Act shall not knowingly carry a firearm on or into any building, officially recognized university related-organization property, including parking areas, sidewalks, and common areas under the control of a public or private community college, college, or university.”

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Specific Concerns for Colleges and Universities

- The Act further specifically provides that the Act should not be construed to prohibit community colleges and universities from:
  - prohibiting persons from carrying a firearm within a vehicle owned, leased, or controlled by the college or university;
  - developing resolutions, regulations, or policies regarding the storage or maintenance of firearms, which must include designated areas where persons can park vehicles that carry firearms; and
  - permitting the carrying or use of firearms for the purpose of instruction and curriculum of officially recognized programs, including but not limited to military science and law enforcement training programs, or in any designated area used for hunting purposes or target shooting.

- Community colleges are specifically NOT exempt for the parking lot safe harbor provisions above.

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Concealed Carry Signage

- Community colleges and universities must clearly and conspicuously post signs of uniform design, as determined by the Illinois Department of State Police, at entrances stating that the carrying of concealed firearms is prohibited.

- The Act provides that the sign must be 4x6 inches in size. The Department of State Police may also promulgate other rules and regulations concerning posting of signs.

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Clear and Present Danger Reporting

- The chief administrative officer of a community college or university or his/her designee is required to report to the Illinois Department of State Police when a student is determined to pose a “clear and present danger” to himself, herself, or to others, within 24 hours of the determination and in accordance with Section 6-103.3 of the Mental Health and Developmental Disabilities Code, 405 ILCS 5/6-103.3.

- The term “clear and present danger” is defined as “a person who demonstrates threatening physical or verbal behavior, such as violent, suicidal, or assaultive threats, actions, or other behavior as determined by a physician, clinical psychologist, qualified examiner, school administrator, or law enforcement official.”
Community Colleges Should Adopt Concealed Carry Policies

- The Act specifically provides that colleges and universities may develop policies and regulations concerning student, employee and visitor misconduct and discipline, storage and maintenance of firearms, the parking of vehicles carrying firearms and concerning the handling of firearms where those firearms are permitted in campus because they are used in an approved class or used for permitted hunting or target shooting.

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Community Colleges Should Adopt Concealed Carry Policies

- Policies should include or address the following:
  - Provisions concerning parking for vehicles carrying firearms.
  - Where classes such as military science or law enforcement training are taught on campus and use firearms, a policy should describe procedures for carrying the firearms onto campus.
  - Describe the possible discipline to which students, employees and visitors will be subject if they are found to be in violation of the Act or in violation of college policies concerning concealed carry.
  - The policy should designate the person that will be responsible for determining when a student poses a “clear and present danger” to himself, herself, or to others, and for reporting this determination to the Department of State Police.

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Next Steps for Colleges to Take

- Consult with appropriate administrators and legal counsel about developing a policy consistent with the Act.

- Educate your police departments and public safety departments about enforcement of the Act and enforcement of relevant college policies.

- Educate students and employees about the Act.

- Monitor the Illinois Department of State Police website for information concerning the administrative rules that will be promulgated to implement the Act.

- Obtain signs and determine posting locations and determine which college department will be responsible for posting and maintaining the signs.

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QUESTIONS?
AFFORDABLE CARE ACT UPDATE:
WHAT’S HERE AND WHAT’S NEXT
FOR EMPLOYER HEALTH PLANS

Presented by: Dennis L. Weedman
Recap of ACA Provisions Implemented since 2010 That Significantly Affect Employer Health Plans and Obligations

- New Coverage Rules for Adult Children
- New Internal Claims Appeals and External Review Processes
- Rule Change for Reimbursement of Over-the-Counter Drugs
- Annual W-2 Reporting on Value of Employer Provided Health Benefits
- Uniform Summary of Benefits and Coverage (SBC) Notification
- Statutory Cap of $2,500 on Health FSA Contributions
- Additional Plan Reforms Applicable to All Group Health Plans

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ACA Provisions Enacted in 2010, but on Hold Pending Regulations

- Automatic Enrollment for Large Employers
  - Employers with more than 200 employees required to automatically enroll all new employees in the employer’s lowest cost group health insurance plan, unless employee opts out.

- Nondiscrimination Rules for Fully Insured Group Health Plans
  - Employers prohibited from discriminating in favor of highly compensated employees as to eligibility or benefits provided under an insured health plan.

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What’s Next That Will Impact Employees and Employer Health Plans
The Individual Mandate

- Beginning January 1, 2104, nearly all U.S. residents required to maintain health insurance with “minimum essential coverage” for themselves and their dependents, or otherwise pay a penalty.

- The penalty amount will be the greater of:
  - Annual penalty of $95 in 2014, $325 in 2015, and $695 thereafter for each individual, spouse and dependent without qualified coverage, capped at three times the annual flat dollar amount.

  OR

  - 1% of adjusted taxpayer income for 2014, 2% for 2015, and 2.5% thereafter.
The Individual Mandate

- Individuals getting insurance through an Exchange, and who are not eligible for adequate and affordable coverage from an employer are eligible for a tax premium subsidy if they meet certain low income requirements.

- Low income means household income of between 100% and 400% of the Federal Poverty Level ("FPL"). (For 2013, the FPL is about $46,000 for individuals and $94,000 for a family of four.)

- Individuals eligible for an employer sponsored plan that is affordable and provides minimum value are not eligible for the tax subsidy.
Health Insurance Exchanges ("Marketplaces")

- Health Insurance Exchanges (sometimes referred to as “Marketplaces”) required to open on October 1, 2013 and offer qualifying health insurance coverage to be effective January 1, 2014.

- State and federal Exchanges are required to perform a variety of functions including, determining eligibility for the Exchange premium tax subsidies.

- Verification of employee’s household income and employer sponsored coverage is necessary to certify whether individual is eligible for a premium tax subsidy.

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The Individual Mandate, Exchanges and their Effect on Employer Administrative Tasks

- An Exchange is required to notify the employer when one of its employees is determined to be eligible for a premium tax subsidy.

- The employer is entitled to appeal that decision.

- Proposed regulations describe a detailed appeals process.

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The Individual Mandate, Exchanges and their Effect on Employer Administrative Tasks

- Employees are likely to have many questions about the employer’s health plan in comparison with what is being offered on an Exchange.

- Be cautious to avoid miscommunications to individuals on these issues, and avoid providing tax or other types of advice to employees about their health insurance choices.

- Be aware of potential unlawful retaliation claims based on employee’s tax subsidy status.

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Employer Notice of Health Exchanges and Coverage Options

- By October 1, 2013, employers are required to send all current employees a notice of “New Health Insurance Marketplace Coverage Options and Your Health Coverage”.

- Notices must be sent to all employees, whether part-time or full-time, and regardless of whether they are eligible for employer health benefits, and to all new employees within 14 days of hire.

- The U.S. Department of Labor has provided two sample model notices that can be used to comply with this requirement.

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Additional New Fees for Health Insurers and Plan Sponsors

- Health insurance issuers and plan sponsors (employers) will be required to pay additional fees to fund two new programs established by the ACA.
Patient Centered Outcomes Research Institute ("PCORI") Fee

- The ACA established the PCORI, a non-profit corporation charged with supporting clinical effectiveness research to be funded in part by fees paid by health insurers and sponsors of self-insured plans.

- Payable each year for seven years. Fee for the first plan year ending on or after October 1, 2013 is $2.00 times the “average number of covered lives.” The fee for future years to be determined.

- Paid by issuers for insured health plans, and the plan sponsor (employer) for self-insured plans.

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The ACA established a temporary "reinsurance program" to subsidize insurers who now will be required to cover higher risk and higher cost individuals.

The required fee in 2014 will be $63.00 per "covered life", with the fee expected to decrease in the subsequent two years.

Paid by policy issuer for insured health plans, and the plan sponsor (employer) for self-insured plans.

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Additional Reforms for Group Health Plans as of January 1, 2014
Employer “Play or Pay” Penalties - Implementation Date Delayed to 2015

- On July 2, 2013, it was announced that enforcement of the employer “Play or Pay” penalties would be delayed one year until January 1, 2015.

- Beginning on January 1, 2015, large employers face significant financial penalties if they fail to offer substantially all full-time employees and their dependent children qualified and affordable health insurance.

- 3 Key Components
Minimum Essential Coverage (MEC)

- **Definition**: MEC is defined broadly under the ACA to include basically all employer sponsored group health plans that provide medical care.

- **Penalties**: If the Employer fails to offer MEC and at least one full-time employee obtains coverage through an Exchange and receives a tax subsidy, the penalty is equivalent to $2,000 per year for every full-time employee in excess of 30 employees.

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Affordable Coverage

- **Definition:** Affordable coverage is defined as costing the employee no more than 9.5% of the employee’s household income for self-only coverage.

- **Penalties:** If an employer offers MEC that is unaffordable, and at least one full-time employee obtains coverage through an Exchange and receives a tax subsidy, the penalty is equivalent to $3,000 per year for each employee who obtains such coverage and is eligible for a tax subsidy.

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Minimum Value

- **Definition:** A plan fails to offer minimum value if it pays less than 60% of the total average cost of covered benefits provided under the plan.

- **Penalties:** If the employer offers MEC that does not provide minimum value, and at least one full-time employee obtains coverage through an Exchange and is eligible for a tax subsidy, the penalty is equivalent to $3,000 per year for each employee who obtains such coverage and is eligible for a tax subsidy.

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Identifying Full-Time Employees under the ACA for Employer Penalty Purposes

- The ACA defines “full-time employee” as an employee who is employed on average at least 30 hours of service per week.

- For hourly-workers, employers must calculate actual hours of service from records of hours worked or for which payment is due.

- For non-hourly workers, employer may use a reasonable equivalency method.
The ACA requires employers to determine and report full-time status on a monthly basis.

Month-to-month tracking for employees with varying hours is not practical.

The regulations provide voluntary safe harbor procedures for tracking employee status.
Safe Harbor Concepts

- Standard Measurement Period
- Stability Period
- Administrative Period
Strategies for Limiting Financial Penalties

- Offering MEC to substantially all employees
- Offering Affordable Coverage
- Offering a Minimum Value plan
- Identifying and controlling the number of full-time employees

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Additional ACA Requirements Delayed for One Year until 2015

- Employer Information Notice Requirements

The ACA requires employers and insurers to file certain information returns with the IRS and the Exchanges containing detailed information about the type of coverage and affordability of their health plans.

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Additional ACA Requirements Delayed for One Year until 2015

- **Cap on Out-of-Pocket Expenditures**
  
  The ACA places a cap on annual out-of-pocket expenditures (such as co-pays and deductibles) permitted by qualified health plans for essential health benefits of $6,350 for individuals and $12,700 for families.

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Excise Tax on “Cadillac Plans” Effective January 1, 2018

- 40% excise tax on employer sponsored “Cadillac Plans” with premiums that exceed $10,200 for individual coverage or $27,500 for family coverage (with amounts indexed for cost-of-living beginning in 2020).

- Tax imposed on the premium amount in excess of the threshold amount.

- Employer pays the tax for self-insured plans; insurer pays for fully-insured plans.

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The Challenge of ACA Compliance as a Moving Target

- The ACA is being implemented over many years, regulations continue to be issued, and for several provisions, implementation has been delayed pending additional regulations or additional systems that need to be put in place.

- Employers need to keep up with the current status of the ACA, and make adjustments as additional regulations are issued or delays are announced.
Top 5 Recommendations to Address ACA Compliance Now

- Ensure that health coverage complies with ACA coverage mandates and that plan documents and all required notices are updated and timely provided.

- Prepare HR personnel and/or administrators to respond appropriately to questions from employees and to confirm employee data and coverage if requested by the Exchange.

- Decide on method to determine whether variable hour employees are full-time for ACA purposes and implement reliable systems for computing and recording employee hours.

- Determine the potential impact of the employer “Play or Pay” penalties and adjust health benefits as necessary.

- Plan for future implementation of ACA provisions, including the Cadillac Tax penalties and nondiscrimination rules, by maintaining flexibility to adjust health benefits as necessary.

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