

2013 Ends With A Flurry Of Activity Regarding The Contraception Mandate

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As 2013 drew to a close, several non-profit religious employers sought injunctions to prevent the application of the contraception mandate under the Patient Protection and Affordable Care Act on Jan. 1, 2014.

Under the current regulations, a non-profit religious employer need not pay for contraceptive services if it certifies that it has a religious objection to providing these services to its employees. The insurer is then required to provide these items to the employees at no cost to either the employer or the employees. The Obama administration characterized this arrangement as an accommodation to these religious employers. Many of the employers objected, saying that it violated their beliefs to provide their employees with health insurance that provided objectionable services, even if the employer was not charged for those services.

In late December, there was a flurry of activity on this issue across the country. For example, there were several requests for injunction in the Northern District of Indiana and the results were mixed. On Dec. 20, a district court judge denied the University of Notre Dame's request for injunction. A copy of the order can be [found here](#). However, another judge in the same district granted requests for injunctions on Dec. 27 for a number of entities, including the Diocese of Fort Wayne-South Bend, the University of Saint Francis, Grace College, and Catholic Charities of the Diocese of Fort Wayne-South Bend. These orders can be found [here](#) and [here](#). On Dec. 31, 2013, the Supreme Court issued an injunction in a case out of Colorado brought by the Little Sisters of the Poor Home for the Aged. A copy of Justice Sotomayor's order can be [found here](#).

The injunctions at issue in these cases are only temporary, so one can expect that these cases will eventually end up in the appellate courts as the parties work to determine the rights of religious employers. As we discussed [in a prior post](#), the Supreme Court is posed to hear oral argument this spring in the *Hobby Lobby* and *Conestoga* cases to decide whether—and to what extent—for-profit corporations have a right to exercise religion. The bottom line—2014 will be an important year for defining the boundaries of employers' religious liberty.

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