

SAME SEX MARRIAGE IS NOW LEGAL IN PA

AN EMPLOYER CHECKLIST

✓ Take Stock

- Review all plan documents, summary plan descriptions (retirement, health insurance, life insurance), employee handbooks, HR policies and procedures
 - o How are the terms “spouse” and “marriage” defined for benefits purposes? Do your documents use the phrase “husband and wife”?
 - o What are the current procedures (including rules regarding proof of relationship) applicable to same-sex spouses?
 - o Review policies (such as FMLA and bereavement policies) to the extent that they are relevant to spouses, and ensure that they do not use language that would exclude same-sex spouses
- Evaluate executive compensation programs and employment agreements

✓ Decision Making

- Consider whether and in what manner current eligibility rules, definitions, procedures and policies need to be changed in light of *Windsor* and *Whitewood*

✓ Documentation

- Prepare necessary plan amendments and revise policies and procedures consistent with the plans sponsor’s intent
- Update forms, communications and instructions provided to plan participants and beneficiaries including beneficiary designations and distribution packages

✓ Communications

- Inform employees and other plan participants about the impact of the *Windsor* and *Whitewood* decisions on their benefits, as well as new rules, procedures, and policies
- Train management personnel to ensure they understand that same-sex couples are now covered by the FMLA. They should also be cautioned not to require documentation of marital status from same-sex couples that is not required of opposite-sex couples
- Inform employees of the need to update family and beneficiary information and, where applicable, spousal consent

✓ Other Administrative Issues

- Coordinate with outside administrators, insurers and service providers (including payroll companies) to ensure that required changes are implemented
- Consult counsel and payroll administrators to assure proper and consistent reporting of Federal, state and local wages
- Work with tax advisors to confirm that the taxation of the same-sex spouse coverage is consistent with federal and state laws

✓ Additional Issues to Consider

- Consider existing policies concerning benefits provided to domestic partners and civil union partners and whether any changes are necessary or desirable
 - o Consider applicable state law requirements and risks, as well as employee relations issues