

BUSINESS IN

WEEKLY WEBINAR SERIES

2025

2024

2026

2027



BOND SCHOENECK
& KING ATTORNEYS

Your Host



Kerry W. Langan

Member

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TODAY'S AGENDA

Kerry Langan – (12 p.m.)

- Welcome and agenda

Kelly McKinney – (12 p.m. - 12:10 p.m.)

- Changes to FLSA Standards in the Home Healthcare Industry

Mario Ayoub – (12:10 - 12:20 p.m.)

- Private Content Takedown Services

Stephanie Fedorka – (12:20 -12:30 p.m.)

- Employee Handbook Updates

G. Oberfield – (12:30PM)

- Questions / wrap up

Changes to FLSA Standards in the Home Healthcare Industry



Kelly McKinney

Associate

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Long Island

Background

- Fair Labor Standards Act requires that most employees be paid overtime for all hours worked over 40 in a workweek
- Certain employees are *exempt* from these requirements (e.g., executive, administrative, and professional employees)
- The federal Dep't of Labor enforces the FLSA, including wage and hour regulations

1970s Home Healthcare Exemptions

- Mid-1970s: Congress extended FLSA coverage to workers who perform “domestic services”
 - “Domestic service employment” means services of a household nature performed by a worker in or about a private home
 - Includes services performed by companions, babysitters, maids, housekeepers, nannies, home health aides, etc.

1970s Home Healthcare Exemptions

- Two broad exemptions:
 - (1) Companionship Exemption, and
 - (2) Live-in Domestic Service Worker Exemption
- Third-party employers, like homecare agencies, were permitted to utilize these exemptions
 - Meaning employers could avoid paying OT to these workers

Companionship Exemption

- Covered employees who provide “companionship services for individuals who... are unable to care for themselves”
- “Companionship services” were defined as “fellowship, care, and protection for a person who cannot care for his or her own needs” due to age or illness

Live-In Domestic Service Workers Exemption

- Covered employees who: (i) are employed in domestic service in a household, and (ii) reside in such household either permanently or for extended periods of time

2013 Rule

- The law was amended to be more favorable to workers:
- (1) It narrowed the definition of companionship services
 - Focused on the “fellowship and protection” of the individual (e.g., engagement in activities and monitoring the person’s well-being), as opposed to the “care” of the individual (e.g., dressing, grooming, bathing)
 - Exemption still applied if the worker was engaged in “care” activities for fewer than 20% of the total hours worked per consumer and per workweek

2013 Rule

- (2) It prevented third-party employers from claiming either exemption
 - Practically, only families, households, and individuals who employed these workers could utilize the exemption
 - Therefore, home healthcare agencies were required to pay overtime to workers

July 2025: Potential Changes

- July 2, 2025: Notice of Proposed Rulemaking, proposing to rescind the 2013 Rule
 - Would restore the ability of third-party employers to utilize exemptions
- July 25, 2025: Bulletin instructing field offices and investigators to stop enforcement of the 2013 Rule

DOL's Reasoning

- Proposed rule “better comports with” the FLSA
- Negative effects of the 2013 Rule
 - Spreads employment, which is undesirable in healthcare industry
 - Increased labor costs, which is passed onto consumers
- Positive effects of the 1975 standards
 - Would significantly reduce regulatory burden for the consumers and providers of home care services, which could expand access to home care services

Impact

- Bulletin “is intended solely as internal guidance” for DOL staff
- It does not create any legally enforceable rights or obligations, nor does it alter any statutory or regulatory requirements
- Therefore, employers should continue their existing practices, but anticipate changes in the near future

Private Content Takedown Services



Mario Ayoub

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Buffalo

What can we take down?

- Private messages and screenshots of sensitive information
- Sexually explicit content
- Other content that may be objectionable to an employer

Who are we dealing with?

- Bad actors looking to collect ransom payments
- Disgruntled employees
- Partners/significant others (revenge porn)

Where do we find the content?

- Adult leak and revenge porn web sites
- Message boards like Reddit
- Social media platforms like X
- Messaging apps like Telegram

What does the takedown process look like?

- Locate the URL of the offending website.
- Run a WHOIS or ICANN search to identify:
 - Website owner
 - Registrar
 - Server owner
- Send takedown demands citing “nonconsensual” disclosure of sexual imagery/IP infringement (DMCA)/other grounds
- Most websites will comply at this point.

What does the takedown process look like?



Domain Information

Domain:	bsk.com
Registered On:	1993-06-22
Expires On:	2031-06-21
Updated On:	2021-06-21
Status:	client transfer prohibited
Name Servers:	ns10.dnsmadeeasy.com



Registrar Information

Registrar:	Register.com, Inc.
IANA ID:	9
Abuse Email:	domain.operations@wel
Abuse Phone:	+1.8777228662



Registrant Contact

Name:	Quintano, Rob
Organization:	Bond, Schoeneck & King
Street:	1 LINCOLN CTR
City:	SYRACUSE
State:	NY
Postal Code:	13202-1306
Country:	US
Phone:	13152188691
Fax:	+1.3152188100
Email:	rquintano @bsk.com

What happens when websites don't comply?

- Some website owners and registrars may block their contact info from appearing in a search.
- Sometimes websites will react aggressively and block you from accessing their site again.
- If the website is outside the reach of U.S. law enforcement, they may ignore the demand.

What happens when websites don't comply?

- Escalate issue to server owner.
- Use Google's content suppression tools.
- Engage law enforcement where you have sufficient information to compile a police report; if a minor is involved, consider filing an FBI IC3 complaint.
- Contact state AG in your client's home state or the website owner/registrar/server owner's home state.
- Seek assistance from international privacy authorities where applicable.

Case Study: Nonconsensual disclosure of sexual imagery

- Multiple noncompliant websites – available data suggested bad actor and websites were outside the reach of U.S. law enforcement.
- After months of searching, bad actor finally made a mistake: texted client from an unblocked phone number.
- Traced call using the Lexis' people search tool to identify bad actor as an Ottawa resident – confirmed bad actor was a Bell Wireless customer.

Best Practices and Preventative Measures

- Think twice before sending sensitive content. You lose control of your data the minute you hit “Send.”
- Ensure your personal electronic devices are password protected – ideally use biometric passwords (FaceID) to avoid brute force compromise.
- Ensure all online accounts where you store personal content is password protected with MFA. Change passwords frequently.
- Review your photos and videos periodically to delete content you no longer need. Store older content in a secure cloud or local storage environment.

Employee Handbook Updates



Stephanie Fedorka

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Rochester

Employee Handbook Updates

- Best Practice – Update employee handbook once per year for internal/employer specific updates and legal updates
 - Good to update handbook or policies for significant updates more frequently, as necessary
 - Also consider announcement/rollout any significant changes that require reasonable advance notice
- Updates for 2025/Looking forward to 2026

Updates to Employee Handbooks

- **Federal**

- PWFA/Accommodations for pregnancy, childbirth, and related conditions
- PUMP Act/Lactation policies

- **New York State**

- Paid Prenatal Leave – NYLL 196-b
- Reproductive Health Decision Making – NYLL 203-e
- Lactation Accommodations – NYLL 206-c
- Jury Duty Leave – Increase to \$72 for first three days
- PFL – Sibling/Updated figures AWW (consider eliminating specific reference to figures)
- COVID Paid Sick Time – Sunset effective July 31, 2025!
- Harassment Policy – Updates from model policy template
- NY HERO Act – Make sure to include
- Blood Donation Leave – Annual notice requirement
- EEO Policy – Immigration status/citizenship

- **New York City**

- EEO Policy - Height/weight protected classes
- Paid sick time policy update – Add prenatal leave (single policy)

Update to Employee Handbooks (continued)

- **Specialized industries:**
 - Warehouse Worker Injury Reduction Program
 - Retail Worker Violence Prevention Policy
- Do not forget to check other states or localities for updates that may apply to your organization or employees!

Changes to FLSA Standards in the Home Healthcare Industry

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Private Content Takedown Services

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Employee Handbook Updates

Stephanie Fedorka, sfedorka@bsk.com

Sexual Harassment Prevention Training

To combat harassment in the workplace, every New York State employer must provide harassment prevention training for all employees annually.

For more information on Bond's online sexual harassment training [click here](#) or email bondonline@bsk.com

Thank You

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It is not to be considered as legal advice.
Laws can change often, and information may become outdated.

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