



# Recent Issues and Updates in Employment Law and Cybersecurity

Trisha L. Barfield and Robert N. Young

Carruthers & Roth, P.A.

# Goals / Objectives

- Learn about the interplay of COVID-19 and laws applicable to employer/employee relationship
- Learn about COVID-19 screening measures in the workplace
- Learn about issues and considerations related to employee leave / out of work situations associated with COVID-19
- Learn about privacy and information gathering in the workplace related to COVID-19

# Employment Laws Applicable to Employer / Employee Relationship

- North Carolina Employment at Will Doctrine
- Title VII of Civil Rights Act of 1964, as amended ("Title VII")
- Age Discrimination in Employment of Act of 1967 ("ADEA")
- Americans with Disabilities Act of 1990 ("ADA")

# Employment Laws Applicable to Employer / Employee Relationship

- North Carolina's Retaliatory Discrimination in Employment Act ("REDA")
- Family Medical Leave Act ("FMLA")
- Families First Coronavirus Response Act ("FFCRA")
- The Genetic Information Nondiscrimination Act ("GINA")

# Covid-19 Screening in the Workplace

- Permissible employer inquiries of employees
- Required documentation
- Information that may or should be used in determining to allow an employee to return to work
- Handling employee's refusal to provide information or documentation

# Leave / Out of Work Considerations

- FMLA
- FFCRA
- Sick or Vacation Leave
- Unpaid Leave
- Benefits
- Reasonable Accommodations

# Cybersecurity Trends During Pandemic

- Zoom/Video Conferencing & Working from Home
- Health data for non-HIPAA entities may require new policies/procedures
- Biometric data (i.e. temperature)
- New scams (i.e. federal assistance programs, Increased email phishing attacks)
- Contact tracing (Google/Apple application programming interface or API)

# North Carolina Identity Theft Protection Act

- Effective December 1, 2015
- Protect
- Destroy
- Act
- H.B. 904 - Proposed Amendments



# The Gramm-Leach-Bliley Act (GLBA), or Financial Services Modernization Act of 1999

- Applies to CPAs, accountants and tax preparers.
- **GLBA Safeguards Rule** requires organizations to develop a written information security plan that describes how they protect client information. The plan must be appropriate to the firm's size and complexity, the nature and scope of its activities, and the sensitivity of the client information it handles.

# Duty of Confidentiality

- 21 NCAC 8N .0205(a)
  - A CPA shall not disclose any confidential information obtained in the course of employment or a professional engagement except with the consent of the employer or client
- Accountant-client privilege is not recognized in NC
  - State v. Agnew, 294 N.C. 382, 394, 241 S.E.2d 684, 692 (1978)

# Protected Personal Information

- First name (Carruthers) and/or First Initial and Last Name (C. Roth), in combination with any of these:
  - SSN or EIN number
  - Driver's license, state identification card or passport number
  - Checking/Savings account number
  - Credit card and debit card number
  - PIN numbers
  - Electronic identification numbers, email or address entered in account numbers or internet identification names

# Protected Personal Information

- Digital signatures
- Any other numbers or information that can be used to access a person's financial resources
- Biometric data
- Fingerprints
- Passwords
- Parent's legal surname prior to marriage
- \*\*Amended Act includes medical information

# Cybersecurity Tips During a Pandemic

- Encryption (email, file sharing)
- Secure Home Wifi (2 networks for office and guest)
- File access (limit certain data and/or employees)
- Limited administrative rights & Increased IT Monitoring
- Invest in insurance coverage and carefully read policy, exclusions



# Questions

**Trisha L. Barfield**

**Robert N. Young**

**Carruthers & Roth, P.A.**

Email: [tlb@crlaw.com](mailto:tlb@crlaw.com)

Phone: (336) 478-1176

Email: [rny@crlaw.com](mailto:rny@crlaw.com)

Phone: (336) 478-1131