

## The ACA Survives Its Most Recent Challenge

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The Affordable Care Act (ACA) can be compared to a cat with nine lives. In a highly anticipated ruling issued on June 17, 2021, the U.S. Supreme Court held, in a 7–2 decision, *Texas v. California*, that the plaintiffs lacked legal standing to challenge the constitutionality of the ACA because they could not show “an injury ‘fairly traceable’ to the ‘allegedly unlawful conduct’ challenged here.”

*Texas v. California* was the third major challenge to the ACA since its enactment in 2010.

In this case, more than a dozen states as well as two individual plaintiffs challenged whether the individual health-insurance mandate, which the Supreme Court upheld in *National Federation of Independent Business v. Sebelius* on the basis of Congress’s taxing powers, was rendered unconstitutional when the tax penalty associated with the failure to maintain individual health-insurance coverage was reduced to zero dollars under the Tax Cuts and Jobs Act of 2017. In deciding the plaintiffs lacked standing, the Supreme Court did not opine on the question of the ACA’s constitutionality.

This decision means the ACA continues to remain in place for the foreseeable future. Thus, health-insurance issuers and employer sponsors of group health plans must continue to comply with the ACA’s long-standing mandates, including elimination of preexisting-condition exclusions, no cost sharing for preventive care, coverage of adult dependent children to age 26, employer-shared-responsibility requirements, and additional tax-reporting requirements for group health plans. In addition, the subsidized public health-insurance markets will continue.

Most recently, the ACA was amended by the Consolidated Appropriations Act to add consumer protections in the areas of surprise-billing reforms and transparency requirements for group health plans and health-insurance issuers.

Please contact a member of the Winston & Strawn Employee Benefits and Executive Compensation Group for more information.

Read the full decision [here](#).

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