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## **Genetic Information Nondiscrimination Act of 2008**

On May 21, 2008, President Bush signed into law the Genetic Information Nondiscrimination Act of 2008 (the "Act"). The Employee Retirement Income Security Act of 1974 ("ERISA"), the Public Health Service Act, the Social Security Act and the Internal Revenue Code have all been amended as a result of this Act. The main focus of the Act is to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

The Act prohibits, among other things, the following:

- A group health plan from adjusting premiums or contribution amounts for a group based on genetic information
  - A group health plan or an issuer of a Medicare supplemental policy from requesting or requiring an individual or family member of an individual to undergo a genetic test
  - A group health plan or an issuer of a Medicare supplemental policy from requesting, requiring, or purchasing genetic information for underwriting, or with respect to any individual prior to such individual's enrollment
  - An issuer of a Medicare supplemental policy from denying or conditioning the issuance or effectiveness of the policy, including the imposition of any exclusion of benefits based on a preexisting condition or discriminating in the pricing of the policy, including the adjustment of premium rates
  - A health insurance issuer from establishing eligibility rules for enrollment in the individual market
- An employer from discriminating against an employee with respect to compensation, terms, conditions, or privileges of employment
  - An employment agency from discriminating against an individual by failing or refusing to refer the individual for employment
  - A labor organization from excluding or expelling a member from the organization
  - An employment agency, labor organization, or joint labor-management committee from causing or attempting to cause an employer to discriminate against a member
  - An employer, labor organization, or joint labor-management committee from discriminating against an individual in admission to a training program

In addition, the Act requires revisions to the Health Insurance Portability and Accountability Act of 1996 to treat genetic information as health information and to prohibit the use or disclosure of genetic information by a group health plan, or through health insurance coverage or a Medicare supplemental policy, for underwriting purposes.

For more information please contact Popovits & Robinson at 708/479-3230.

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