

**Final Rules For The
Genetic Information Nondiscrimination Act of 2008
or
I Have Been Dreaming of GINA**

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President George W. Bush, on May 21, 2008, executed the Genetic Information Nondiscrimination Act of 2008 (GINA). Approximately thirty months later, on November 9, 2010 the final regulations for the employment related provisions (Title II) of GINA were issued and take effect on January 10, 2011. The stated purpose of the Act is to “protect job applicants, current and former employees, labor union members, and apprentices and trainees from discrimination based on their genetic information.”

So what, you say, does this have to do with my responsibilities as an employer? I don't conduct any genetic testing or forensic DNA analysis. That may be so, but do you ever request information from healthcare providers in connection with an employee's request for FMLA leave? How about trying to understand the nature of a disability under the ADA? Similarly, if your organization sponsors a wellness program, you should be aware of the questions you can no longer ask. This includes in most cases, asking medical history questions relating to “family members”. Believe it or not, under the 4th degree of relationships, an individual's First Cousin once removed is included (I do have a cousin that was once removed-but I won't say from where).

Among other measures a prudent employer should consider, in response to the final GINA Regulations, would be implementing the following: display the new EEOC Poster, which now includes GINA information; ensure that the new Safe Harbor language appears on all requests for any type of medical information generated from your firm. For those who want to see more of GINA, you can check out the EEOC website, or perhaps just rub the bottle. Of course, you could also consult a qualified expert on employment law matters.

Stay tuned...

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