

## LMV E-Bulletin: New Posters, New Policies, New Leaves, Oh My!

We just wanted to briefly make sure you are aware of some developments that will likely require you to re-write some policies, recognize some new leaves, and put up a new poster. Our lives are never boring, right?

First: Title II of the Genetic Information Nondiscrimination Act ("GINA") goes into effect on November 21, 2009. As you've probably heard, GINA prohibits employers from acquiring or using genetic information; genetic information includes genetic tests and family medical history. The requirement that your EEO postings reference GINA goes into effect on November 21st and the EEOC has issued its new EEO poster to include GINA (as well as to address some other recent changes); you can see that poster here:

[http://www.eeoc.gov/self\\_print\\_poster.pdf](http://www.eeoc.gov/self_print_poster.pdf). The EEOC has also developed a supplemental poster that you can put up next to your old poster, if you would prefer that route: [http://www.eeoc.gov/gina\\_supplement.pdf](http://www.eeoc.gov/gina_supplement.pdf).

Second: With regard to your policies, be sure to update your employee handbooks and policies so that you add "genetic or family medical history" as additional bases upon which you will not discriminate. Also, remember that many post-offer medical questionnaires may ask about family history; you should stop soliciting this information in light of GINA, and ensure that all genetic information previously requested (which could include check-the-box lists for family medical histories for certain health conditions) is maintained separately from personnel files.

Third: Just when you got a handle on the new FMLA regulations, we have more changes – but they really shouldn't upset the apple cart too much. On October 28, 2009, President Obama signed a defense bill into law that provides further expansions to the new military leaves under the FMLA. Under the new law, "qualifying exigency" leave is now available to active duty members of the regular military; qualifying exigency leave was previously available only to families of members of the National Guard and Reserves. The law also extends caregiver leave to family members of veterans, where it was previously available only to family members of current service members. You will want to at least issue an interim policy statement that addresses these changes, work towards revising your FMLA policy as soon as you can, and train your supervisors and managers so that they can spot potential FMLA leave issues.