

**PPACA AMENDS REHABILITATION ACT TO MANDATE STANDARDS FOR MEDICAL DIAGNOSTIC EQUIPMENT TO ACCOMMODATE INDIVIDUALS WITH DISABILITIES****RESOURCE LINKS**

June 4, 2010

**The United States Access Board**  
<http://www.access-board.gov/>

**EBG Area of Focus: The Rehabilitation Act**  
<http://www.ebglaw.com/showsubarea.aspx?Show=142>

**EBG Area of Focus: Title III of the ADA: Public Accommodations**  
<http://www.ebglaw.com/showsubarea.aspx?Show=140>

The Patient Protection and Affordable Care Act (“PPACA”) contains a provision that will significantly affect all types of health care manufacturers and providers.<sup>1</sup> Section 4203 of PPACA amends Title V of the Rehabilitation Act of 1973 (“Rehab Act”) by adding a new section that requires the Architectural and Transportation Barriers Compliance Board (“ATBCB”), in consultation with the Food and Drug Administration (“FDA”) Commissioner, to promulgate regulatory standards for medical diagnostic equipment used in physician offices, clinics, emergency rooms, hospitals, and other medical settings to accommodate the needs of individuals with disabilities. Particularly, the standards are intended to ensure that individuals with disabilities (a) have access to and use of the equipment, and (b) will independently be able to enter, use, and exit the equipment to the maximum extent possible. The medical diagnostic equipment explicitly mentioned in this provision includes examination tables and chairs, weight scales, and radiological equipment.

The standards are to be promulgated by March 23, 2012.<sup>2</sup> In addition, they will be subject to periodic review and possible amendment by the ATBCB, in consultation with the FDA Commissioner. Following enactment, health care manufacturers and providers will be bound by regulations mandating the minimum design standards of medical equipment to accommodate individuals with disabilities. Given the broad range of disabilities covered under the Rehab Act, compliance with the new standards will likely result in increased costs for manufacturers and providers if, for example, the minimum design standards of radiologic and exam equipment requires providers to purchase new equipment or extensively renovate their current physical space to accommodate the morbidly obese. Given the time frame for promulgation, the regulations will likely be subject to notice and comment rulemaking procedures that will provide interested parties with an opportunity to offer comments and suggestions prior to their becoming final. Manufacturers and providers should make their views known during this process.

**IMPORTANT DATES**

**March 23, 2010**  
President Obama Signs PPACA into Law

**May 11, 2010**  
Nonpublic ATBCB Meeting to Discuss Section 4203

**March 23, 2012**  
Date by Which Regulations Must be Promulgated

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Health care providers should begin to plan for implementation of this provision of PPACA as the regulations will likely require some new equipment, reconfigurations of exam areas, and procedures to provide equal access to services for disabled patients.

For more information about this issue of IMPLEMENTING HEALTH AND INSURANCE REFORM, please contact one of the authors below or the member of the firm who normally handles your legal matters.

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<sup>1</sup> An earlier client alert by the authors, [Health Reform Bill Mandates Standards for Medical Diagnostic Equipment to Accommodate Individuals with Disabilities](#), discussed a similar provision in the Senate Health, Education, Labor, and Pensions Committee's proposed health reform bill, the Affordable Health Choices Act.

<sup>2</sup> Perhaps because of the strategy used to pass the health reform bill, *i.e.*, reconciliation, Section 4203 mistakenly states that the regulations are to be promulgated "not later than 24 months after the date of enactment of the Affordable Health Choices Act." The Affordable Health Choices Act was replaced by PPACA, although many aspects of the Affordable Health Choice Act were incorporated into PPACA, including this provision.



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