GIBSON DUNN

Margaux Hall, Branden Berns, and Karen Spindler Have Authored Law360’s “How ‘Most Favored Nation’ Regime Affects Biopharma Deals”

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Law360

Partners Margaux Hall, Branden Berns, and Karen Spindler have authored *Law360’s* “How 'Most Favored Nation' Regime Affects Biopharma Deals” [PDF]. They propose that while the Most Favored Nation (MFN) regime remains legally and politically unsettled, parties should not wait for final rules. Instead, they should proactively structure transactions so that the party controlling pricing decisions bears the associated economic consequences.

“With the law remaining unsettled and the manufacturer agreements executed to date confidential, the task is not to predict the outcome but to draft so the allocation survives any present or future imagination of MFN,” they write. “Dealmakers who wait for the rules to settle will be negotiating these terms after the risk has already been priced against them.”

Partner Ryan Murr contributed to the article.

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