

HOUSE BILL 29

C3

8lr0552

(PRE-FILED)

By: ~~Delegate Manno~~ Delegates Manno, Riley, Pena-Melnyk, Montgomery, Kipke, Morhaim, Reznik, V. Turner, Kullen, and Pendergrass

Requested: August 27, 2007

Introduced and read first time: January 9, 2008

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2008

CHAPTER _____

1 AN ACT concerning

2 ~~Long-Term Care Insurance - Discrimination Based on Genetic Information~~
3 ~~or Tests - Prohibited~~ Prohibited Acts - Genetic Tests, Genetic Information,
4 or Genetic Services

5 FOR the purpose of prohibiting ~~insurers, nonprofit health service plans, health~~
6 ~~maintenance organizations, and preferred provider organizations from~~
7 ~~discriminating against an applicant or insured based on genetic information or~~
8 ~~the results of a genetic test in the issuance or renewal of long term care~~
9 ~~insurance; providing that this Act does not prohibit the use of genetic~~
10 ~~information or the results of a genetic test under certain circumstances;~~
11 ~~defining certain terms; and generally relating to discrimination based on~~
12 ~~genetic information or genetic tests in issuing or renewing long term care~~
13 ~~insurance~~ a carrier or insurance producer of a carrier that provides long-term
14 care insurance from requesting or requiring a genetic test or from using a
15 genetic test, the results of a genetic test, genetic information, or a request for
16 genetic services to take certain actions with regard to long-term care insurance;
17 providing for a certain exception; defining certain terms; and generally relating
18 to prohibited acts relating to genetic tests, genetic information, and genetic
19 services with regard to long-term care insurance.

20 BY repealing and reenacting, without amendments,

21 Article - Insurance

22 Section 18-101(a) and (d)

23 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2006 Replacement Volume and 2007 Supplement)

2 BY ~~adding to~~ repealing and reenacting, with amendments,

3 Article – Insurance

4 Section ~~18-105.1~~ 18-120

5 Annotated Code of Maryland

6 (2006 Replacement Volume and 2007 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article – Insurance**

10 18-101.

11 (a) In this title the following words have the meanings indicated.

12 (d) “Carrier” means an insurer, nonprofit health service plan, health
13 maintenance organization, or preferred provider organization.

14 ~~**18-105.1.**~~

15 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE~~
16 ~~MEANINGS INDICATED.~~

17 ~~(2) “GENETIC INFORMATION” MEANS INFORMATION ABOUT~~
18 ~~CHROMOSOMES, GENES, GENE PRODUCTS, OR INHERITED CHARACTERISTICS~~
19 ~~THAT MAY DERIVE FROM AN INDIVIDUAL OR FAMILY MEMBER.~~

20 ~~(3) “GENETIC TEST” MEANS A LABORATORY TEST OF HUMAN~~
21 ~~CHROMOSOMES, GENES, OR GENE PRODUCTS THAT IS USED TO IDENTIFY THE~~
22 ~~PRESENCE OR ABSENCE OF INHERITED OR CONGENITAL ALTERATIONS IN~~
23 ~~GENETIC MATERIAL THAT ARE ASSOCIATED WITH DISEASE OR ILLNESS.~~

24 ~~(B) A CARRIER MAY NOT DISCRIMINATE AGAINST AN APPLICANT OR~~
25 ~~INSURED BASED ON GENETIC INFORMATION OR THE RESULTS OF A GENETIC~~
26 ~~TEST IN THE ISSUANCE OR RENEWAL OF LONG TERM CARE INSURANCE.~~

27 ~~(C) THIS SECTION DOES NOT PROHIBIT THE USE OF GENETIC~~
28 ~~INFORMATION OR THE RESULTS OF A GENETIC TEST BY A CARRIER IF THE USE~~
29 ~~IS ACTUARIALLY JUSTIFIED.~~

30 18-120.

31 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
32 MEANINGS INDICATED.

1 **(2) (I) "GENETIC INFORMATION" MEANS INFORMATION**
2 **DERIVED FROM A GENETIC TEST:**

3 **1. ABOUT CHROMOSOMES, GENES, GENE PRODUCTS,**
4 **OR INHERITED CHARACTERISTICS THAT MAY DERIVE FROM AN INDIVIDUAL OR A**
5 **FAMILY MEMBER;**

6 **2. NOT OBTAINED FOR DIAGNOSTIC AND**
7 **THERAPEUTIC PURPOSES; AND**

8 **3. OBTAINED AT A TIME WHEN THE INDIVIDUAL TO**
9 **WHOM THE INFORMATION RELATES IS ASYMPTOMATIC FOR THE DISEASE,**
10 **DISORDER, ILLNESS, OR IMPAIRMENT TO WHICH THE INFORMATION RELATES.**

11 **(II) "GENETIC INFORMATION" DOES NOT INCLUDE**
12 **INFORMATION:**

13 **1. RELATING TO A DISEASE, DISORDER, ILLNESS, OR**
14 **IMPAIRMENT THAT IS OR HAS BEEN MANIFESTED OR FOR WHICH THE**
15 **INDIVIDUAL IS OR HAS BEEN SYMPTOMATIC; OR**

16 **2. DERIVED FROM:**

17 **A. ROUTINE PHYSICAL MEASUREMENTS;**

18 **B. CHEMICAL, BLOOD, AND URINE ANALYSES;**

19 **C. TESTS FOR THE USE OF DRUGS;**

20 **D. TESTS FOR THE PRESENCE OF THE HUMAN**
21 **IMMUNODEFICIENCY VIRUS; OR**

22 **E. TESTS FOR THE PURPOSE OF DIAGNOSING A**
23 **MANIFESTED DISEASE, DISORDER, ILLNESS, OR IMPAIRMENT.**

24 **(3) "GENETIC SERVICES" MEANS HEALTH SERVICES THAT ARE**
25 **PROVIDED TO OBTAIN, ASSESS, OR INTERPRET GENETIC INFORMATION OR THE**
26 **RESULTS OF GENETIC TESTS.**

27 **(4) (I) "GENETIC TEST" MEANS AN ANALYSIS OF HUMAN DNA,**
28 **RNA, CHROMOSOMES, PROTEINS, OR METABOLITES THAT DETECTS**
29 **GENOTYPES, MUTATIONS, OR CHROMOSOMAL CHANGES.**

30 **(II) "GENETIC TEST" DOES NOT INCLUDE:**

- 1 **1. ROUTINE PHYSICAL MEASUREMENTS;**
- 2 **2. CHEMICAL, BLOOD, AND URINE ANALYSES;**
- 3 **3. TESTS FOR THE USE OF DRUGS;**
- 4 **4. TESTS FOR THE PRESENCE OF THE HUMAN**
5 **IMMUNODEFICIENCY VIRUS; OR**
- 6 **5. TESTS THAT ARE DIRECTLY RELATED TO A**
7 **MANIFESTED DISEASE, DISORDER, ILLNESS, OR IMPAIRMENT THAT COULD**
8 **REASONABLY BE DETECTED BY A HEALTH CARE PROFESSIONAL WITH**
9 **APPROPRIATE TRAINING AND EXPERTISE IN THE FIELD OF MEDICINE**
10 **INVOLVED.**

11 **(B) In addition to the other practices prohibited under this article, a carrier**
12 **or insurance producer of a carrier that provides long-term care insurance may not:**

13 **(1) employ a method of marketing that induces or tends to induce the**
14 **purchase of long-term care insurance through undue pressure;**

15 **(2) use a method of marketing that fails to disclose in a conspicuous**
16 **manner that a purpose of the method of marketing is solicitation of insurance, and**
17 **that contact will be made by an insurance producer or carrier; [or]**

18 **(3) knowingly make a misleading representation or an incomplete or**
19 **fraudulent comparison of policies or carriers to induce a person to lapse, forfeit,**
20 **surrender, terminate, retain, pledge, assign, borrow on, or convert a policy or take out**
21 **a policy with another carrier[.];**

22 **(4) REQUEST OR REQUIRE A GENETIC TEST TO:**

23 **(I) DENY OR LIMIT THE AMOUNT, EXTENT, OR KIND OF**
24 **LONG-TERM CARE INSURANCE COVERAGE AVAILABLE TO AN INDIVIDUAL; OR**

25 **(II) CHARGE A DIFFERENT RATE FOR THE SAME**
26 **LONG-TERM CARE INSURANCE COVERAGE; OR**

27 **(5) USE A GENETIC TEST, THE RESULTS OF A GENETIC TEST,**
28 **GENETIC INFORMATION, OR A REQUEST FOR GENETIC SERVICES TO:**

29 **(I) DENY OR LIMIT THE AMOUNT, EXTENT, OR KIND OF**
30 **LONG-TERM CARE INSURANCE COVERAGE AVAILABLE TO AN INDIVIDUAL; OR**

1 (II) CHARGE A DIFFERENT RATE FOR THE SAME
2 LONG-TERM CARE INSURANCE.

3 (C) NOTWITHSTANDING SUBSECTION (B)(5) OF THIS SECTION, IF THE
4 USE IS BASED ON SOUND ACTUARIAL PRINCIPLES, THE RESULTS OF A GENETIC
5 TEST OR GENETIC INFORMATION MAY BE USED TO:

6 (1) DENY OR LIMIT THE AMOUNT, EXTENT, OR KIND OF
7 LONG-TERM CARE INSURANCE COVERAGE MADE AVAILABLE TO AN INDIVIDUAL;
8 OR

9 (2) CHARGE A DIFFERENT RATE FOR THE SAME LONG-TERM CARE
10 INSURANCE.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.